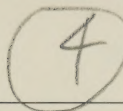


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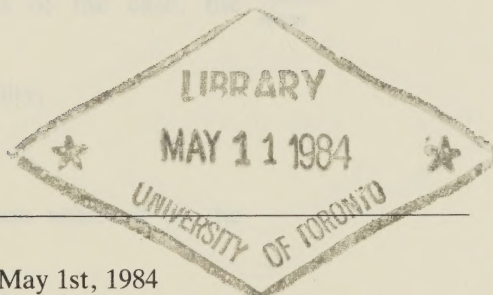
4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 51

An Act to amend the Workers' Compensation Act

Mr. Haggerty



1st Reading May 1st, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to broaden the criteria used by the Workers' Compensation Board in assessing the impairment of earning capacity resulting from an injury that causes permanent disability. The Act currently states that the impairment of earning capacity shall be estimated from the nature and degree of the injury. The Board is authorized under the Act to compile a rating schedule of percentages of impairment of earning capacity for specified injuries that may be used as a guide in determining the compensation payable in permanent disability cases. The Bill repeals the provision that authorizes the Board to compile a rating schedule and directs the Board to estimate the impairment of earning capacity in light of all the circumstances of each individual case.

- (g) the potential for the worker to rehabilitate himself through vocational rehabilitation;
- (h) any other factor that is relevant to determining the worker's ability to earn income after the accident in comparison with the worker's ability to earn income before the accident.

(2) Subsection 43 (3) of the said Act is repealed.

(3) Subsection 43 (5) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 61, section 2, is repealed.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

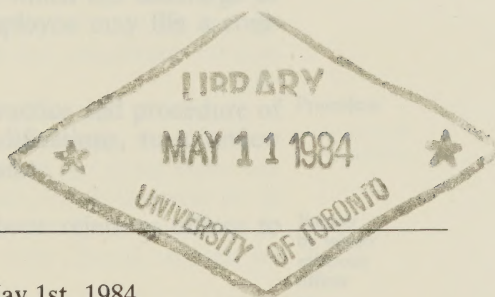
Short title

3. The short title of this Act is the *Workers' Compensation Amendment Act, 1984*.

Bill 52

An Act respecting the Rights of Non-Unionized Workers

Mr. Haggerty



1st Reading May 1st, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide a low cost mechanism whereby a non-unionized worker may obtain a review by the Ontario Labour Relations Board where the worker is discharged or otherwise disciplined for cause and the contract of employment is silent on matters of discipline. At the present time, a non-unionized worker who is dismissed or otherwise disciplined for cause may have no right of action against his employer notwithstanding the fact that the discipline is, having regard to all of the circumstances, unduly harsh.

The Bill provides a two stage process for reviewing complaints involving harsh discipline. Initially, a labour relations officer would be appointed to effect a settlement which would be reduced to writing and which would have to be complied with according to its terms. Then, if no settlement is reached, or where settlement is not likely, the Ontario Labour Relations Board would inquire into the matter. The Board, if satisfied that the complaint is justified, will have the power to make an order substituting such penalty as is just and reasonable in the circumstances.

Bill 52

1984

An Act respecting the Rights of Non-Unionized Workers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Ontario Labour Relations Board;
- (b) "complaint" means a complaint filed with the Board under subsection 2 (1).

2.—(1) Where an employee who has been discharged or otherwise disciplined for cause by his employer is of the opinion that the penalty is unduly harsh and where the employee's contract of employment is not governed by a collective agreement under the *Labour Relations Act* and does not contain a specific penalty for the infraction for which the discharge or other discipline was imposed, the employee may file a complaint with the Board.

Complaint
to
O.L.R.B.

R.S.O. 1980,
c. 228

(2) Any regulations governing the practice and procedure of the Board apply, with necessary modifications, to a review under subsection 3 (2) and to a complaint.

Procedure

(3) The Board may authorize a labour relations officer to inquire into a complaint.

Inquiry
by labour
relations
officer

(4) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.

Duties

(5) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Report

(6) Where a labour relations officer is unable to effect a settlement of the complaint or where the Board in its discretion

Remedy

considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint and where the Board is satisfied that the discharge or other discipline imposed was unduly harsh, the Board may, by order, substitute such other penalty for the discharge or other discipline as to the Board seems just and reasonable in all the circumstances.

Idem

(7) Without limiting the generality of subsection (6),

- (a) where an employee has been discharged, the Board, in an order made under subsection (6), may order that the employee be reinstated in employment, with or without compensation or that the employee be compensated in lieu of reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer;
- (b) where an employee has been suspended, the Board, in an order made under subsection (6), may order that the employee be compensated for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer.

Effect of
settlement

3.—(1) Where a complaint has been settled whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed by the employer or his representative and the employee, the settlement is binding upon the employer and the employee and shall be complied with according to its terms.

Review of
settlement

(2) Where either the employer or the employee alleges that the other party has breached any term of a settlement referred to in subsection (1), the employer or the employee, as the case may be, may apply to the Board for a review of the matter and the Board, after an inquiry, may order that,

- (a) the employee or employer comply with the terms of the settlement; or
- (b) vary the terms of the settlement and order compliance with the terms of the settlement as varied.

Enforce-
ment of
orders

4. Where either the employer or the employee has failed to comply with any of the terms of an order made under subsection 2 (6) or subsection 3 (2) the other party may, after the expiration of fourteen days from the date of the order or the

date provided in the order for compliance, whichever is later, notify the Board in writing of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the order, exclusive of the reasons therefor, if any, in the prescribed form, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as such.

5. The rights conferred by this Act are in addition to any other rights that an employee may have at law but, where a complaint is filed, any action brought by the employee in a court of law related to the discharge or discipline of the employee may be stayed pending the disposition of the matter by the Board.

No
derogation
of rights

6. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

7. The short title of this Act is the *Non-Unionized Workers Protection Act, 1984*.

Short title

Bill 53

An Act to amend the Planning Act, 1983

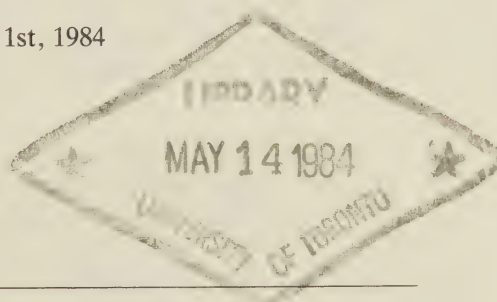
Mr. Spensieri

1st Reading May 1st, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill would authorize municipal councils to refuse to issue permits for the demolition of buildings containing six or more dwelling units.

Bill 53

1984

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Part IV of the *Planning Act*, 1983, being chapter 1, is amended by adding thereto the following section:

33a.—(1) In this section, “dwelling unit” means a room or suite of two or more rooms designed or intended for use by one or more persons as living accommodation in which cooking and sanitary facilities are provided for the exclusive use of the person or persons. Interpretation

(2) Despite section 33 of this Act or sections 34 and 44 of the *Ontario Heritage Act*, the council may refuse to issue a demolition permit for the demolition of a building containing six or more dwelling units, except a building that is, Council may refuse to issue demolition permit
R.S.O. 1980, c. 337

(a) a tourist establishment as defined in the *Tourism Act*; R.S.O. 1980, c. 507

(b) unsafe within the meaning of the *Building Code Act*; or R.S.O. 1980, c. 51

(c) built to a residential density which is 50 per cent or less of the maximum residential density which the council may by by-law permit under the official plan for the municipality.

(3) Nothing in this section derogates from a council's authority to refuse to issue a demolition permit under this or any other Act where the council would be entitled to do so if this section had not been enacted. No derogation of council's power

(4) Where a council refuses to issue a demolition permit under this section or neglects to make a decision within forty-five days after the clerk of the municipality receives the application, the applicant may appeal to the Ontario Municipal Board, within thirty days from the refusal or within thirty days Appeal to O.M.B.

after the expiration of the forty-five day period, as the case may be.

Notice of
appeal

(5) A person who appeals under subsection (4) shall give notice of the appeal to the persons specified and in the manner directed by the Ontario Municipal Board.

O.M.B.
decision
final

(6) The Ontario Municipal Board may dismiss an appeal made under subsection (4) or may direct that the demolition permit be issued, and its decision is final.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Planning Amendment Act, 1984*.

4TH SESSION, 32ND LEGISLATURE, ONTARIO

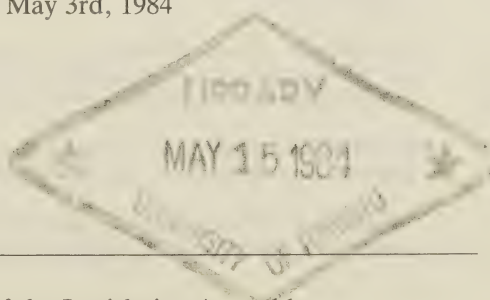
33 ELIZABETH II, 1984

Bill 54

An Act to amend the Public Service Superannuation Act

The Hon. G. L. Ashe
Minister of Government Services

1st Reading May 3rd, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of “contributor” is re-enacted to include the part-time and seasonal employees described in subclauses (ii) and (iii). Also, the definition is updated by including a reference to the Superannuation Adjustment Fund.

Subsection 2. The term “salary” is defined.

Subsection 3. The definition of the term “supplementary benefit” is complementary to the authority, set out in the Bill, to make regulations providing for supplementary benefits.

Subsection 4. New subsection 1 (4) of the Act makes the application of the Act optional for seasonal employees of the Crown.

SECTION 2. New subsection 3 (4) of the Act relates to the liability of members of the Public Service Superannuation Board.

SECTION 3. New section 7a of the Act sets out rules for computing credits for part-time and seasonal contributions.

SECTION 4. New section 7b of the Act enables designated persons to continue as contributors following release from employment by reason of shortage of work or funds or the abolition of a position or other material change in organization.

SECTION 5. Section 8 of the Act, which relates to contributions in respect of past service, is re-enacted to provide for contributions in respect of past part-time and seasonal service.

SECTION 6. Subsection 9 (1) of the Act relates to contributions to the Fund in respect of leave of absence for more than one month without salary because of illness or pregnancy.

SECTION 7. Section 21 of the Act relates to contributions by the employer on behalf of a contributor who has qualified under a long term income protection plan. The definition of “approved long term income protection plan”, in subsection 21 (1) of the Act, is expanded to include plans other than under the *Public Service Act*. Subsections 21 (2) and (3) are revised to include a reference to a special fund mentioned in subsection 10 (2) of the Act, to include a reference to a board, commission or foundation (section 28 of the Act), to correct the reference to the month to which salary is to be related in computing the amount of each contribution, and to correct the cross-reference in subsection 21 (3).

SECTION 8. Section 25 of the Act refers to “full-time registrar of deeds”. The section is re-enacted to remove the reference to “full-time” and to bring the position title up to date.

SECTION 9. New section 26a is added to the Act to include Ministerial staff within the ambit of the Act.

SECTION 10. Section 27 of the Act relates to transfers between the plan in this Act and the plan in the *Teachers’ Superannuation Act*. The amendments to subsections 29 (2) and (3) of the Act, set out in the Bill, are to replace the provisions of section 27.

SECTION 11.—Subsection 1. Clause 28 (a) of the Act relates to the staff of boards, commissions or foundations. The amendment removes the reference to “full-time” staff.

Subsection 2. A complementary amendment is deemed to be made in other Acts that confer the benefit of section 28 of this Act upon full-time staff.

SECTION 12. Subsections 29 (2) and (3) of the Act relate to transfers between the Fund under this Act and other funds. The subsections are amended to provide for transfers between the Fund and the Teachers' Superannuation Fund. Subsection 29 (8) is amended to provide for agreements with the Teachers' Superannuation Commission as to transfers of contributions and credits.

SECTION 13. Subsection 34 (1) of the Act states that a sum payable out of the Fund is not subject to garnishment, attachment or seizure.

SECTION 14. Section 35 of the Act requires the deduction from amounts payable under this Act of any debt owed to the Crown by a contributor.

SECTION 15.—Subsection 1. Section 41 of the Act authorizes the making of regulations. New clause (aa) is complementary to the definition of "salary" set out in this Bill.

Subsection 2. New clause (ab) provides for supplementary benefits.

Subsection 3. Sections 28 and 29 of the Act refer to designations by the Lieutenant Governor in Council for the purpose of the application of the Act in relation to boards, commissions or foundations (section 28) and for the purposes of transfers to or from the Fund (section 29).

Bill 54

1984

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (d) of the *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “contributor” means,

- (i) a civil servant,
- (ii) a person employed in the service of the Crown on a recurring and consecutive basis for seasonal or recurring work for four months or more but less than twelve months in each year,
- (iii) a person in a class of persons to whom this Act is made applicable,
- (iv) the Provincial Auditor,
- (v) the Assistant Provincial Auditor, or
- (vi) a member of the staff of the Provincial Auditor,

but does not include,

- (vii) a person who has not yet attained the age of eighteen years, or
- (viii) a person who is a contributor to a fund to which the Crown contributes other than the Public Service Superannuation Fund, the

Superannuation Adjustment Fund and the
Canada Pension Plan.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

(ga) “salary”, in relation to a person, means remuneration paid for services in the employment in relation to which the person is a contributor, but does not include an amount paid for a reason prescribed by the regulations.

(3) Subsection 1 (1) of the said Act is further amended by adding thereto the following clause:

(gb) “supplementary benefit” means a benefit in addition to the benefits provided in this Act.

(4) Section 1 of the said Act is amended by adding thereto the following subsection:

Option for
seasonal or
recurring
work
contributor

(4) Subclause (1) (d) (ii), which relates to persons employed on a recurring or consecutive basis, does not apply to a person so employed until the first day of the month next following the month in which the person files with the Board an election, signed by the person, to be a contributor under this Act.

2. Section 3 of the said Act is amended by adding thereto the following subsection:

Liability

(4) No proceeding for damages shall be commenced or continued against a member of the Board for an act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of a power under this Act or the regulations or for neglect or default in the performance of a duty or the execution of a power under this Act or the regulations.

3. The said Act is amended by adding thereto the following section:

Rules for
computations
re part-time
and seasonal
or recurring
work
contributor

7a. For the purpose of computing the entitlements under this Act and the regulations of or related to a person who is a contributor by virtue of employment that is not full-time employment, the following rules apply:

1. Part-time service on a regular and continuing basis and service on a recurring and consecutive basis for

seasonal or recurring work shall be treated as continuous service.

2. A contributor employed on a regular and continuing part-time basis is entitled to credit for service in the proportion that the work period of the contributor bears to the work period of a contributor employed on a regular and continuing full-time basis in the same or a comparable position to that in which the contributor is employed.
3. A contributor employed on a recurring and consecutive basis for seasonal or recurring work shall be given credit for service in the proportion that the work period of the contributor in each year bears to the full year.
4. The salary of the contributor for a twelve-month period shall be calculated according to the following:

$$\frac{S}{T} \times F = A$$

where,

S = contributor's actual salary for the twelve-month period.

T = contributor's work period.

F = full-time work period (in the same units of time as for T, that is hours, days, weeks or months).

A = salary for the twelve-month period.

5. For the purpose of determining length of service, service for a part of a year shall be deemed to be service for the whole year.
6. Rule 5 does not apply for the purpose of computing the amount of an allowance or an annuity.
7. Rule 5 does not apply for the purpose of determining entitlement to a superannuation allowance under subsection 11 (2) or (3).

8. The person's average salary shall be computed using the person's salary for consecutive twelve-month periods computed in accordance with rule 4.

4. The said Act is further amended by adding thereto the following section:

Bridging
after
release from
employment

7b.—(1) A person who is released from employment in the public service by reason of shortage of work or funds or the abolition of a position or other material change in organization and who is designated for the purposes of this section by the Lieutenant Governor in Council continues to be a contributor until the end of the month in which the person would have qualified for a superannuation allowance under this Act if the person had not been released from employment.

Contributions

(2) Contributions by or on behalf of a person mentioned in subsection (1) shall be made on the basis of the person's salary immediately before the person ceased to be employed in the public service.

Credit for
service

(3) The period of time for which contributions are required to be made under subsection (1) shall be counted as contributory service.

5. Section 8 of the said Act is repealed and the following substituted therefor:

Contribu-
tions in
respect of
past service

8.—(1) A contributor is entitled to obtain credit in the Fund for past non-contributory service with the Crown in accordance with the following:

1. The contributor must give notice to the Board of intention to obtain the credit.
2. The contributor must pay into the Fund an amount for principal composed of the aggregate of an amount in lieu of contributions under this Act and an amount in lieu of contributions under the *Superannuation Adjustment Benefits Act* both as computed by the Board in respect of the period of service for which the credit is to be obtained.
3. The contributor must pay into the Fund compound interest, at such rate as the Board determines, on the principal amount for the period of time from the date of commencement of the non-contributory service to the date on which the notice of intention to obtain the credit is given to the Board.

R.S.O. 1980,
c. 490

4. Where the principal and interest are paid into the Fund in instalments, the contributor must pay into the Fund an amount for compound interest at such rate as the Board determines.
5. Credit for service on a regular and continuing part-time basis shall be computed in the proportion that the work period of the contributor bears to the full-time work period of a civil servant in the same or a comparable position to that in which the contributor was employed.
6. Credit for service on a recurring and consecutive basis for seasonal or recurring work shall be computed in the proportion that the work period of the contributor in each year bears to the full year.

(2) For the purposes of subsection (1), the principal amount shall be computed, Computation
of principal
amount

- (a) where the credit to be obtained is in respect of service continuous with service while a contributor and,
 - (i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary during the period for which the credit is to be obtained, or
 - (ii) the notice of intention to obtain the credit is given to the Board more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given; or
- (b) where the credit to be obtained is in respect of service that is not continuous with service while a contributor and,
 - (i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the most recent occasion on which he became a contributor, or
 - (ii) the notice of intention to obtain the credit is given to the Board more than one year after

the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given.

Idem

(3) Notwithstanding subsection (2), where notice of intention by a person who is a contributor on the day this subsection comes into force is given to the Board not more than one year after the date on which this section comes into force in order to obtain credit in respect of service that is not continuous with service while a contributor, the principal amount shall be computed on the basis of the contributor's salary on the most recent occasion on which he became a contributor.

Where records no longer available

(4) For the purposes of subsections (1) to (3), where past employment or salary records are no longer available, the Board may determine the amount of the salary during the period of time for which the contributor intends to obtain credit and may determine the day on which the past non-contributory service with the Crown was commenced.

6. Subsection 9 (1) of the said Act is amended by striking out "illness or pregnancy" in the second and third lines and inserting in lieu thereof "illness, pregnancy or adoption of a child".

7. Section 21 of the said Act is repealed and the following substituted therefor:

Long term income protection plan R.S.O. 1980, c. 418

21.—(1) In this section, "approved long term income protection plan" means a plan established pursuant to the *Public Service Act* or a plan established by an employer of contributors that provides long term income protection insurance related to employment for which credit has been established under this Act.

Contribution on behalf of disabled contributor

(2) Where a contributor has qualified for a benefit under an approved long term income protection plan in respect of a disability incurred on or after the 1st day of July, 1974, a contribution shall be made to the Fund on behalf of the contributor,

- (a) out of moneys appropriated therefor by the Legislature;
- (b) out of the special fund of the branch designated for the purpose of subsection 10 (2); or
- (c) by the board, commission or foundation that employed the contributor on the date when the contributor qualified for the benefit,

as the case requires, for each month or part of a month in respect of which the contributor continues to qualify for the benefit.

(3) The contribution mentioned in subsection (2) shall be 6 per cent of the salary authorized to be paid to the contributor in the month in which the contributor qualified for the benefit. Amount

(4) Subsection (2) applies whether or not the contributor is in receipt of the benefit. Receipt of benefit

(5) The period of time for which contributions are required to be made under subsection (2) shall be counted as contributory service. Contributory service

(6) Subsection (2) does not apply in respect of a person who has ceased to qualify as a contributor. Qualified as contributor

8. Section 25 of the said Act is repealed and the following substituted therefor:

25. This Act applies to every land registrar. Land registrars

9. The said Act is further amended by adding thereto the following section:

26a. This Act applies to every person appointed by a member of the Executive Council to a position designated by the Lieutenant Governor in Council in the service of the Crown in the office of a member of the Executive Council. Application of Act to Minister's staff

10. Section 27 of the said Act is repealed on the date that is one year after the day on which this Act comes into force.

11.—(1) Clause 28 (a) of the said Act is amended by striking out “full-time” in the first line.

(2) Section 28 of the said Act is amended by adding thereto the following subsection:

(2) A statement in any other Act that this Act applies to the full-time staff provided for in the other Act shall be deemed to state that this Act applies also to the part-time staff provided for in the other Act. Staff under other Acts

12.—(1) Subsection 29 (2) of the said Act is amended,

(a) by adding thereto the following clause:

1983, c. 84

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*;

(b) by inserting after "clergy" in the thirty-fifth line "or into the Teachers' Superannuation Fund".

(2) Subsection 29 (3) of the said Act is amended by adding thereto the following clause:

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*.

(3) Subsection 29 (8) of the said Act is amended by inserting after "therein" in the sixth line "or with the Teachers' Superannuation Commission under the *Teachers' Superannuation Act, 1983*".

13. Section 34 of the said Act is amended by adding thereto the following subsections:

Application
of subs. (1)

(3) Notwithstanding subsection (1), payment to a person out of the Fund is subject to garnishment, attachment or seizure in satisfaction of an order for support or maintenance enforceable in Ontario.

Notice of
enforcement

(4) Subsection (3) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order.

14. Section 35 of the said Act is repealed.

15.—(1) Section 41 of the said Act is amended by adding thereto the following clause:

(aa) prescribing reasons for payment of amounts for the purpose of clause 1 (1) (ga), which relates to salary.

(2) The said section 41 is further amended by adding thereto the following clause:

(ab) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided.

(3) The said section 41 is further amended by adding thereto the following clauses:

(ac) designating boards, commissions, foundations and positions for the purposes of section 28;

- (ad) designating corporations, public institutions and Government related agencies for the purposes of section 29.

16.—(1) This Act, except sections 10 and 12, comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) Sections 10 and 12 come into force on the 1st day of September, 1984. Idem

17. The short title of this Act is the *Public Service Superannuation Amendment Act, 1984*. Short title

Bill 54

An Act to amend the Public Service Superannuation Act

The Hon. G. L. Ashe
Minister of Government Services

1st Reading May 3rd, 1984
2nd Reading May 25th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of “contributor” is re-enacted to include the part-time and seasonal employees described in subclauses (ii) and (iii). Also, the definition is updated by including a reference to the Superannuation Adjustment Fund.

Subsection 2. The term “salary” is defined.

Subsection 3. The definition of the term “supplementary benefit” is complementary to the authority, set out in the Bill, to make regulations providing for supplementary benefits.

Subsection 4. New subsection 1 (4) of the Act makes the application of the Act optional for seasonal employees of the Crown.

SECTION 2. New subsection 3 (4) of the Act relates to the liability of members of the Public Service Superannuation Board.

SECTION 3. New section 7a of the Act sets out rules for computing credits for part-time and seasonal contributions.

SECTION 4. New section 7b of the Act enables designated persons to continue as contributors following release from employment by reason of shortage of work or funds or the abolition of a position or other material change in organization.

SECTION 5. Section 8 of the Act, which relates to contributions in respect of past service, is re-enacted to provide for contributions in respect of past part-time and seasonal service.

SECTION 6. Subsection 9 (1) of the Act relates to contributions to the Fund in respect of leave of absence for more than one month without salary because of illness or pregnancy.

SECTION 7.—Subsection 1. New subsection 14 (8a) of the Act extends the guarantee set out in subsection 14 (8) to those persons who are able to establish a service credit date of December 31st, 1965 or earlier.

Subsection 2. Subsection 14 (9) of the Act is amended to refer to new subsection 14 (8a).

Subsection 3. The subsection states the rule that new subsection 14 (8a) of the Act applies only in respect of a person who is or who becomes a contributor on or after the date subsection 7 (1) of the Bill comes into force.

SECTION 8. New section 20a is added to the Act to enable a person who is a contributor or a person who is entitled to a deferred annuity to direct the Board to increase the survivor allowance related to the person's allowance or deferred annuity. The allowance or deferred annuity will be actuarially reduced to allow for the increase in the survivor allowance.

SECTION 9. Section 21 of the Act relates to contributions by the employer on behalf of a contributor who has qualified under a long term income protection plan. The definition of “approved long term income protection plan”, in subsection 21 (1) of the Act, is expanded to include plans other than under the *Public Service Act*. Subsections 21 (2) and (3) are revised to include a reference to a special fund mentioned in subsection 10 (2) of the Act, to include a reference to a board, commission or foundation (section 28 of the Act), to correct the reference to the month to which salary is to be related in computing the amount of each contribution, and to correct the cross-reference in subsection 21 (3).

SECTION 10. Section 25 of the Act refers to “full-time registrar of deeds”. The section is re-enacted to remove the reference to “full-time” and to bring the position title up to date.

SECTION 11. New section 26a is added to the Act to include Ministerial staff within the ambit of the Act.

SECTION 12. Section 27 of the Act relates to transfers between the plan in this Act and the plan in the *Teachers' Superannuation Act*. The amendments to subsections 29 (2) and (3) of the Act, set out in the Bill, are to replace the provisions of section 27.

SECTION 13.—Subsection 1. Clause 28 (a) of the Act relates to the staff of boards, commissions or foundations. The amendment removes the reference to “full-time” staff.

Subsection 2. A complementary amendment is deemed to be made in other Acts that confer the benefit of section 28 of this Act upon full-time staff.

SECTION 14. Subsections 29 (2) and (3) of the Act relate to transfers between the Fund under this Act and other funds. The subsections are amended to provide for transfers between the Fund and the Teachers' Superannuation Fund. Subsection 29 (8) is amended to provide for agreements with the Teachers' Superannuation Commission as to transfers of contributions and credits.

SECTION 15. Subsection 34 (1) of the Act states that a sum payable out of the Fund is not subject to garnishment, attachment or seizure.

SECTION 16. Section 35 of the Act requires the deduction from amounts payable under this Act of any debt owed to the Crown by a contributor.

SECTION 17.—Subsection 1. Section 41 of the Act authorizes the making of regulations. New clause (aa) is complementary to the definition of “salary” set out in this Bill.

Subsection 2. New clause (ab) provides for supplementary benefits.

Subsection 3. Sections 28 and 29 of the Act refer to designations by the Lieutenant Governor in Council for the purpose of the application of the Act in relation to boards, commissions or foundations (section 28) and for the purposes of transfers to or from the Fund (section 29).

Bill 54

1984

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (d) of the *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “contributor” means,

- (i) a civil servant,
- (ii) a person employed in the service of the Crown on a recurring and consecutive basis for seasonal or recurring work for four months or more but less than twelve months in each year,
- (iii) a person in a class of persons to whom this Act is made applicable,
- (iv) the Provincial Auditor,
- (v) the Assistant Provincial Auditor, or
- (vi) a member of the staff of the Provincial Auditor,

but does not include,

- (vii) a person who has not yet attained the age of eighteen years, or
- (viii) a person who is a contributor to a fund to which the Crown contributes other than the Public Service Superannuation Fund, the

Superannuation Adjustment Fund and the
Canada Pension Plan.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

(ga) “salary”, in relation to a person, means remuneration paid for services in the employment in relation to which the person is a contributor, but does not include an amount paid for a reason prescribed by the regulations.

(3) Subsection 1 (1) of the said Act is further amended by adding thereto the following clause:

(gb) “supplementary benefit” means a benefit in addition to the benefits provided in this Act.

(4) Section 1 of the said Act is amended by adding thereto the following subsection:

Option for
seasonal or
recurring
work
contributor

(4) Subclause (1) (d) (ii), which relates to persons employed on a recurring or consecutive basis, does not apply to a person so employed until the first day of the month next following the month in which the person files with the Board an election, signed by the person, to be a contributor under this Act.

2. Section 3 of the said Act is amended by adding thereto the following subsection:

Liability

(4) No proceeding for damages shall be commenced or continued against a member of the Board for an act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of a power under this Act or the regulations or for neglect or default in the performance of a duty or the execution of a power under this Act or the regulations.

3. The said Act is amended by adding thereto the following section:

Rules for
computations
re part-time
and seasonal
or recurring
work
contributor

7a. For the purpose of computing the entitlements under this Act and the regulations of or related to a person who is a contributor by virtue of employment that is not full-time employment, the following rules apply:

1. Part-time service on a regular and continuing basis and service on a recurring and consecutive basis for

seasonal or recurring work shall be treated as continuous service.

2. A contributor employed on a regular and continuing part-time basis is entitled to credit for service in the proportion that the work period of the contributor bears to the work period of a contributor employed on a regular and continuing full-time basis in the same or a comparable position to that in which the contributor is employed.
3. A contributor employed on a recurring and consecutive basis for seasonal or recurring work shall be given credit for service in the proportion that the work period of the contributor in each year bears to the full year.
4. The salary of the contributor for a twelve-month period shall be calculated according to the following:

$$\frac{S}{T} \times F = A$$

where,

S = contributor's actual salary for the twelve-month period.

T = contributor's work period.

F = full-time work period (in the same units of time as for T, that is hours, days, weeks or months).

A = salary for the twelve-month period.

5. For the purpose of determining length of service, service for a part of a year shall be deemed to be service for the whole year.
6. Rule 5 does not apply for the purpose of computing the amount of an allowance or an annuity.
7. Rule 5 does not apply for the purpose of determining entitlement to a superannuation allowance under subsection 11 (2) or (3).

8. The person's average salary shall be computed using the person's salary for consecutive twelve-month periods computed in accordance with rule 4.

4. The said Act is further amended by adding thereto the following section:

Bridging
after
release from
employment

7b.—(1) A person who is released from employment in the public service by reason of shortage of work or funds or the abolition of a position or other material change in organization and who is designated for the purposes of this section by the Lieutenant Governor in Council continues to be a contributor until the end of the month in which the person would have qualified for a superannuation allowance under this Act if the person had not been released from employment.

Contributions

(2) Contributions by or on behalf of a person mentioned in subsection (1) shall be made on the basis of the person's salary immediately before the person ceased to be employed in the public service.

Credit for
service

(3) The period of time for which contributions are required to be made under subsection (1) shall be counted as contributory service.

5. Section 8 of the said Act is repealed and the following substituted therefor:

Contribu-
tions in
respect of
past service

8.—(1) A contributor is entitled to obtain credit in the Fund for past non-contributory service with the Crown in accordance with the following:

1. The contributor must give notice to the Board of intention to obtain the credit.
2. The contributor must pay into the Fund an amount for principal composed of the aggregate of an amount in lieu of contributions under this Act and an amount in lieu of contributions under the *Superannuation Adjustment Benefits Act* both as computed by the Board in respect of the period of service for which the credit is to be obtained.
3. Where the amount for principal is computed under subclause (2) (a) (i) (continuous service, notice within one year) or under subsection (3) (current contributor, notice within one year), the contributor must pay into the Fund compound interest, at such rate as the Board determines, on the principal amount for the period of time from the date of

commencement of the non-contributory service to the date on which the notice of intention to obtain the credit is given to the Board.

4. Where the principal or interest or both are paid into the Fund in instalments, the contributor must pay into the Fund an amount for compound interest at such rate as the Board determines.
5. Credit for service on a regular and continuing part-time basis shall be computed in the proportion that the work period of the contributor bears to the full-time work period of a civil servant in the same or a comparable position to that in which the contributor was employed.
6. Credit for service on a recurring and consecutive basis for seasonal or recurring work shall be computed in the proportion that the work period of the contributor in each year bears to the full year.

(2) For the purposes of subsection (1), the principal amount shall be computed,

Computation
of principal
amount

- (a) where the credit to be obtained is in respect of service continuous with service while a contributor and,
 - (i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary during the period for which the credit is to be obtained, or
 - (ii) the notice of intention to obtain the credit is given to the Board more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given; or

- ➡
- (b) where the credit to be obtained is in respect of service that is not continuous with service while a contributor, on the basis of the contributor's salary on the date the notice is given. ⬆

(3) Notwithstanding subsection (2), where notice of intention by a person who is a contributor on the day this subsection comes into force is given to the Board not more than one year after the date on which this section comes into force in

Idem

order to obtain credit in respect of service that is not continuous with service while a contributor, the principal amount shall be computed on the basis of the contributor's salary on the most recent occasion on which he became a contributor.

Where records no longer available

(4) For the purposes of subsections (1) to (3), where past employment or salary records are no longer available, the Board may determine the amount of the salary during the period of time for which the contributor intends to obtain credit and may determine the day on which the past non-contributory service with the Crown was commenced.

6.—(1) Subsection 9 (1) of the said Act is amended by striking out “illness or pregnancy” in the second and third lines and inserting in lieu thereof “illness, pregnancy or adoption of a child”.



(2) Section 9 of the said Act is amended by adding thereto the following subsection:

Interpretation

(5) For the purpose of subsection (1), leave of absence because of pregnancy or adoption of a child includes all leave or leaves of absence in respect of the birth or adoption of the child.

7.—(1) Section 14 of the said Act is amended by adding thereto the following subsection:

Extension of guarantee

(8a) Subject to subsection (9), a person who is credited for the purposes of this Act with service that when added to the person's credit for service in the Fund establishes a date of commencement of service that is on or before the 31st day of December, 1965 shall, if he becomes entitled to an allowance or an annuity, receive an annual allowance or an annuity equal to that which he would have received if it had been computed under *The Public Service Superannuation Act* as it was on the 31st day of December, 1965.

R.S.O. 1960, c. 332

(2) Subsection 14 (9) of the said Act is amended by inserting after “subsection (8)” in the first line and in the eleventh line “or (8a)”.

(3) Subsection 14 (8a) of the said Act, as enacted by subsection (1), applies only in respect of a person who is or who becomes a contributor on or after the date subsection (1) comes into force.

8. The said Act is further amended by adding thereto the following section:

20a.—(1) A person who is a contributor or who is entitled to a deferred annuity under this Act may direct the Board to increase the amount of the survivor allowance related to the allowance or annuity to which the person will be entitled or related to the deferred annuity to 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the allowance or annuity or deferred annuity and to reduce the amount of the allowance or annuity or deferred annuity accordingly.

Increase of
survivor
allowance

(2) A direction mentioned in subsection (1) must be in writing and must be delivered to the Board two years or more before the person commences to receive an allowance or an annuity or deferred annuity under this Act.

Time limit

(3) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board less than two years before the person commences to receive an allowance or an annuity or deferred annuity under this Act, if the Board is satisfied that the person is in good health having regard to the person's age.

Exception

(4) Where a direction mentioned in subsection (1) is delivered in accordance with subsection (2) or accepted in accordance with subsection (3), the amount of the allowance or annuity or deferred annuity payable to the person shall be actuarially reduced in a manner approved by the Board to allow for the survivor allowance in accordance with the direction, and the amount of the survivor allowance related to the allowance or annuity or deferred annuity shall be increased in accordance with the direction.

Actuarial
reduction of
allowance

(5) A direction mentioned in subsection (1) is not valid if the person who gives the direction dies before applying for an allowance or annuity or deferred annuity under this Act.

When
direction
not valid

(6) A person who gives a direction mentioned in subsection (1) may revoke the direction by a written revocation delivered to the Board before the date of commencement of the person's allowance or annuity or deferred annuity.

Revocation
of direction

2. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) In this section, “approved long term income protection plan” means a plan established pursuant to the *Public Service Act* or a plan established by an employer of contributors that provides long term income protection insurance related to employment for which credit has been established under this Act.

Long term
income pro-
tection plan
R.S.O. 1980,
c. 418

Contribution on behalf of disabled contributor

(2) Where a contributor has qualified for a benefit under an approved long term income protection plan in respect of a disability incurred on or after the 1st day of July, 1974, a contribution shall be made to the Fund on behalf of the contributor,

- (a) out of moneys appropriated therefor by the Legislature;
- (b) out of the special fund of the branch designated for the purpose of subsection 10 (2); or
- (c) by the board, commission or foundation that employed the contributor on the date when the contributor qualified for the benefit,

as the case requires, for each month or part of a month in respect of which the contributor continues to qualify for the benefit.



Amount

(3) The contribution mentioned in subsection (2) shall be 6 per cent of the salary authorized to be paid from time to time to a person in the same or a comparable position to that in which the contributor was employed in the month in which the contributor qualified for the benefit.



Receipt of benefit

(4) Subsection (2) applies whether or not the contributor is in receipt of the benefit.

Contributory service

(5) The period of time for which contributions are required to be made under subsection (2) shall be counted as contributory service.

Qualified as contributor

(6) Subsection (2) does not apply in respect of a person who has ceased to qualify as a contributor.

10. Section 25 of the said Act is repealed and the following substituted therefor:

Land registrars

25. This Act applies to every land registrar.

11. The said Act is further amended by adding thereto the following section:

Application of Act to Minister's staff

26a. This Act applies to every person appointed by a member of the Executive Council to a position designated by the Lieutenant Governor in Council in the service of the Crown in the office of a member of the Executive Council.

12. Section 27 of the said Act is repealed on the date that is one year after the day on which this Act comes into force.

13.—(1) Clause 28 (a) of the said Act is amended by striking out “full-time” in the first line.

(2) Section 28 of the said Act is amended by adding thereto the following subsection:

(2) A statement in any other Act that this Act applies to the full-time staff provided for in the other Act shall be deemed to state that this Act applies also to the part-time staff provided for in the other Act. Staff under other Acts

14.—(1) Subsection 29 (2) of the said Act is amended,

(a) by adding thereto the following clause:

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*; 1983, c. 84

(b) by inserting after “clergy” in the thirty-fifth line “or into the Teachers' Superannuation Fund”.

(2) Subsection 29 (3) of the said Act is amended by adding thereto the following clause:

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*.

(3) Subsection 29 (8) of the said Act is amended by inserting after “therein” in the sixth line “or with the Teachers' Superannuation Commission under the *Teachers' Superannuation Act, 1983*”.

15. Section 34 of the said Act is amended by adding thereto the following subsections:

(3) Notwithstanding subsection (1), payment to a person out of the Fund is subject to garnishment, attachment or seizure in satisfaction of an order for support or maintenance enforceable in Ontario. Application of subs. (1)

(4) Subsection (3) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order. Notice of enforcement

16. Section 35 of the said Act is repealed.

17.—(1) Section 41 of the said Act is amended by adding thereto the following clause:

(aa) prescribing reasons for payment of amounts for the purpose of clause 1 (1) (ga), which relates to salary.

(2) The said section 41 is further amended by adding thereto the following clause:

(ab) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided.

(3) The said section 41 is further amended by adding thereto the following clauses:

(ac) designating boards, commissions, foundations and positions for the purposes of section 28;

(ad) designating corporations, public institutions and Government related agencies for the purposes of section 29.

Commence-
ment

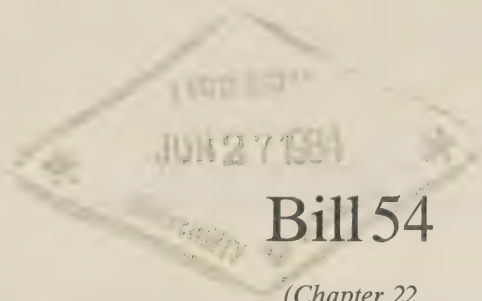
18.—(1) This Act, except sections 12 and 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Sections 12 and 14 come into force on the 1st day of September, 1984.

Short title

19. The short title of this Act is the *Public Service Superannuation Amendment Act, 1984*.



Bill 54

(Chapter 22
Statutes of Ontario, 1984)

An Act to amend the Public Service Superannuation Act

The Hon. G. L. Ashe
Minister of Government Services

<i>1st Reading</i>	May 3rd, 1984
<i>2nd Reading</i>	May 25th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 54

1984

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (d) of the *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “contributor” means,

(i) a civil servant,

(ii) a person employed in the service of the Crown on a recurring and consecutive basis for seasonal or recurring work for four months or more but less than twelve months in each year,

(iii) a person in a class of persons to whom this Act is made applicable,

(iv) the Provincial Auditor,

(v) the Assistant Provincial Auditor, or

(vi) a member of the staff of the Provincial Auditor,

but does not include,

(vii) a person who has not yet attained the age of eighteen years, or

(viii) a person who is a contributor to a fund to which the Crown contributes other than the Public Service Superannuation Fund, the

Superannuation Adjustment Fund and the
Canada Pension Plan.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

(ga) “salary”, in relation to a person, means remuneration paid for services in the employment in relation to which the person is a contributor, but does not include an amount paid for a reason prescribed by the regulations.

(3) Subsection 1 (1) of the said Act is further amended by adding thereto the following clause:

(gb) “supplementary benefit” means a benefit in addition to the benefits provided in this Act.

(4) Section 1 of the said Act is amended by adding thereto the following subsection:

Option for
seasonal or
recurring
work
contributor

(4) Subclause (1) (d) (ii), which relates to persons employed on a recurring or consecutive basis, does not apply to a person so employed until the first day of the month next following the month in which the person files with the Board an election, signed by the person, to be a contributor under this Act.

2. Section 3 of the said Act is amended by adding thereto the following subsection:

Liability

(4) No proceeding for damages shall be commenced or continued against a member of the Board for an act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of a power under this Act or the regulations or for neglect or default in the performance of a duty or the execution of a power under this Act or the regulations.

3. The said Act is amended by adding thereto the following section:

Rules for
computations
re part-time
and seasonal
or recurring
work
contributor

7a. For the purpose of computing the entitlements under this Act and the regulations of or related to a person who is a contributor by virtue of employment that is not full-time employment, the following rules apply:

1. Part-time service on a regular and continuing basis and service on a recurring and consecutive basis for

seasonal or recurring work shall be treated as continuous service.

2. A contributor employed on a regular and continuing part-time basis is entitled to credit for service in the proportion that the work period of the contributor bears to the work period of a contributor employed on a regular and continuing full-time basis in the same or a comparable position to that in which the contributor is employed.
3. A contributor employed on a recurring and consecutive basis for seasonal or recurring work shall be given credit for service in the proportion that the work period of the contributor in each year bears to the full year.
4. The salary of the contributor for a twelve-month period shall be calculated according to the following:

$$\frac{S}{T} \times F = A$$

where,

S = contributor's actual salary for the twelve-month period.

T = contributor's work period.

F = full-time work period (in the same units of time as for T, that is hours, days, weeks or months).

A = salary for the twelve-month period.

5. For the purpose of determining length of service, service for a part of a year shall be deemed to be service for the whole year.
6. Rule 5 does not apply for the purpose of computing the amount of an allowance or an annuity.
7. Rule 5 does not apply for the purpose of determining entitlement to a superannuation allowance under subsection 11 (2) or (3).

8. The person's average salary shall be computed using the person's salary for consecutive twelve-month periods computed in accordance with rule 4.

4. The said Act is further amended by adding thereto the following section:

Bridging
after
release from
employment

7b.—(1) A person who is released from employment in the public service by reason of shortage of work or funds or the abolition of a position or other material change in organization and who is designated for the purposes of this section by the Lieutenant Governor in Council continues to be a contributor until the end of the month in which the person would have qualified for a superannuation allowance under this Act if the person had not been released from employment.

Contributions

(2) Contributions by or on behalf of a person mentioned in subsection (1) shall be made on the basis of the person's salary immediately before the person ceased to be employed in the public service.

Credit for
service

(3) The period of time for which contributions are required to be made under subsection (1) shall be counted as contributory service.

5. Section 8 of the said Act is repealed and the following substituted therefor:

Contribu-
tions in
respect of
past service

8.—(1) A contributor is entitled to obtain credit in the Fund for past non-contributory service with the Crown in accordance with the following:

1. The contributor must give notice to the Board of intention to obtain the credit.
2. The contributor must pay into the Fund an amount for principal composed of the aggregate of an amount in lieu of contributions under this Act and an amount in lieu of contributions under the *Superannuation Adjustment Benefits Act* both as computed by the Board in respect of the period of service for which the credit is to be obtained.
3. Where the amount for principal is computed under subclause (2) (a) (i) (continuous service, notice within one year) or under subsection (3) (current contributor, notice within one year), the contributor must pay into the Fund compound interest, at such rate as the Board determines, on the principal amount for the period of time from the date of

R.S.O. 1980,
c. 490

commencement of the non-contributory service to the date on which the notice of intention to obtain the credit is given to the Board.

4. Where the principal or interest or both are paid into the Fund in instalments, the contributor must pay into the Fund an amount for compound interest at such rate as the Board determines.
5. Credit for service on a regular and continuing part-time basis shall be computed in the proportion that the work period of the contributor bears to the full-time work period of a civil servant in the same or a comparable position to that in which the contributor was employed.
6. Credit for service on a recurring and consecutive basis for seasonal or recurring work shall be computed in the proportion that the work period of the contributor in each year bears to the full year.

(2) For the purposes of subsection (1), the principal amount shall be computed, Computation
of principal
amount

(a) where the credit to be obtained is in respect of service continuous with service while a contributor and,

(i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary during the period for which the credit is to be obtained, or

(ii) the notice of intention to obtain the credit is given to the Board more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given; or

(b) where the credit to be obtained is in respect of service that is not continuous with service while a contributor, on the basis of the contributor's salary on the date the notice is given.

(3) Notwithstanding subsection (2), where notice of intention by a person who is a contributor on the day this subsection comes into force is given to the Board not more than one year after the date on which this section comes into force in Idem

order to obtain credit in respect of service that is not continuous with service while a contributor, the principal amount shall be computed on the basis of the contributor's salary on the most recent occasion on which he became a contributor.

Where records no longer available

(4) For the purposes of subsections (1) to (3), where past employment or salary records are no longer available, the Board may determine the amount of the salary during the period of time for which the contributor intends to obtain credit and may determine the day on which the past non-contributory service with the Crown was commenced.

6.—(1) Subsection 9 (1) of the said Act is amended by striking out “illness or pregnancy” in the second and third lines and inserting in lieu thereof “illness, pregnancy or adoption of a child”.

(2) Section 9 of the said Act is amended by adding thereto the following subsection:

Interpretation

(5) For the purpose of subsection (1), leave of absence because of pregnancy or adoption of a child includes all leave or leaves of absence in respect of the birth or adoption of the child.

7.—(1) Section 14 of the said Act is amended by adding thereto the following subsection:

Extension of guarantee

(8a) Subject to subsection (9), a person who is credited for the purposes of this Act with service that when added to the person's credit for service in the Fund establishes a date of commencement of service that is on or before the 31st day of December, 1965 shall, if he becomes entitled to an allowance or an annuity, receive an annual allowance or an annuity equal to that which he would have received if it had been computed under *The Public Service Superannuation Act* as it was on the 31st day of December, 1965.

R.S.O. 1960, c. 332

(2) Subsection 14 (9) of the said Act is amended by inserting after “subsection (8)” in the first line and in the eleventh line “or (8a)”.

(3) Subsection 14 (8a) of the said Act, as enacted by subsection (1), applies only in respect of a person who is or who becomes a contributor on or after the date subsection (1) comes into force.

8. The said Act is further amended by adding thereto the following section:

20a.—(1) A person who is a contributor or who is entitled to a deferred annuity under this Act may direct the Board to increase the amount of the survivor allowance related to the allowance or annuity to which the person will be entitled or related to the deferred annuity to 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the allowance or annuity or deferred annuity and to reduce the amount of the allowance or annuity or deferred annuity accordingly.

Increase of
survivor
allowance

(2) A direction mentioned in subsection (1) must be in writing and must be delivered to the Board two years or more before the person commences to receive an allowance or an annuity or deferred annuity under this Act.

Time limit

(3) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board less than two years before the person commences to receive an allowance or an annuity or deferred annuity under this Act, if the Board is satisfied that the person is in good health having regard to the person's age.

Exception

(4) Where a direction mentioned in subsection (1) is delivered in accordance with subsection (2) or accepted in accordance with subsection (3), the amount of the allowance or annuity or deferred annuity payable to the person shall be actuarially reduced in a manner approved by the Board to allow for the survivor allowance in accordance with the direction, and the amount of the survivor allowance related to the allowance or annuity or deferred annuity shall be increased in accordance with the direction.

Actuarial
reduction of
allowance

(5) A direction mentioned in subsection (1) is not valid if the person who gives the direction dies before applying for an allowance or annuity or deferred annuity under this Act.

When
direction
not valid

(6) A person who gives a direction mentioned in subsection (1) may revoke the direction by a written revocation delivered to the Board before the date of commencement of the person's allowance or annuity or deferred annuity.

Revocation
of direction

9. Section 21 of the said Act is repealed and the following substituted therefor:

21.—(1) In this section, “approved long term income protection plan” means a plan established pursuant to the *Public Service Act* or a plan established by an employer of contributors that provides long term income protection insurance related to employment for which credit has been established under this Act.

Long term
income pro-
tection plan
R.S.O. 1980,
c. 418

Contribution on behalf of disabled contributor

(2) Where a contributor has qualified for a benefit under an approved long term income protection plan in respect of a disability incurred on or after the 1st day of July, 1974, a contribution shall be made to the Fund on behalf of the contributor,

- (a) out of moneys appropriated therefor by the Legislature;
- (b) out of the special fund of the branch designated for the purpose of subsection 10 (2); or
- (c) by the board, commission or foundation that employed the contributor on the date when the contributor qualified for the benefit,

as the case requires, for each month or part of a month in respect of which the contributor continues to qualify for the benefit.

Amount

(3) The contribution mentioned in subsection (2) shall be 6 per cent of the salary authorized to be paid from time to time to a person in the same or a comparable position to that in which the contributor was employed in the month in which the contributor qualified for the benefit.

Receipt of benefit

(4) Subsection (2) applies whether or not the contributor is in receipt of the benefit.

Contributory service

(5) The period of time for which contributions are required to be made under subsection (2) shall be counted as contributory service.

Qualified as contributor

(6) Subsection (2) does not apply in respect of a person who has ceased to qualify as a contributor.

10. Section 25 of the said Act is repealed and the following substituted therefor:

Land registrars

25. This Act applies to every land registrar.

11. The said Act is further amended by adding thereto the following section:

Application of Act to Minister's staff

26a. This Act applies to every person appointed by a member of the Executive Council to a position designated by the Lieutenant Governor in Council in the service of the Crown in the office of a member of the Executive Council.

12. Section 27 of the said Act is repealed on the date that is one year after the day on which this Act comes into force.

13.—(1) Clause 28 (a) of the said Act is amended by striking out “full-time” in the first line.

(2) Section 28 of the said Act is amended by adding thereto the following subsection:

(2) A statement in any other Act that this Act applies to the full-time staff provided for in the other Act shall be deemed to state that this Act applies also to the part-time staff provided for in the other Act. Staff under
other Acts

14.—(1) Subsection 29 (2) of the said Act is amended,

(a) by adding thereto the following clause:

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*; 1983, c. 84

(b) by inserting after “clergy” in the thirty-fifth line “or into the Teachers' Superannuation Fund”.

(2) Subsection 29 (3) of the said Act is amended by adding thereto the following clause:

(fa) the pension plan in the *Teachers' Superannuation Act, 1983*.

(3) Subsection 29 (8) of the said Act is amended by inserting after “therein” in the sixth line “or with the Teachers' Superannuation Commission under the *Teachers' Superannuation Act, 1983*”.

15. Section 34 of the said Act is amended by adding thereto the following subsections:

(3) Notwithstanding subsection (1), payment to a person out of the Fund is subject to garnishment, attachment or seizure in satisfaction of an order for support or maintenance enforceable in Ontario. Application
of subs. (1)

(4) Subsection (3) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order. Notice of
enforcement

16. Section 35 of the said Act is repealed.

17.—(1) Section 41 of the said Act is amended by adding thereto the following clause:

(aa) prescribing reasons for payment of amounts for the purpose of clause 1 (1) (ga), which relates to salary.

(2) The said section 41 is further amended by adding thereto the following clause:

(ab) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided.

(3) The said section 41 is further amended by adding thereto the following clauses:

(ac) designating boards, commissions, foundations and positions for the purposes of section 28;

(ad) designating corporations, public institutions and Government related agencies for the purposes of section 29.

Commence-
ment

18.—(1) This Act, except sections 12 and 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Sections 12 and 14 come into force on the 1st day of September, 1984.

Short title

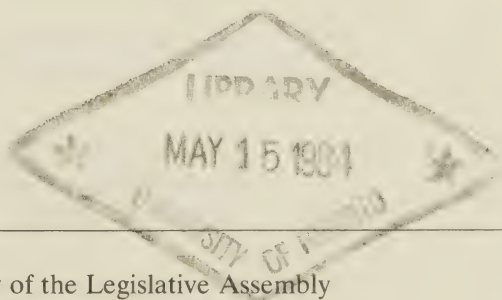
19. The short title of this Act is the *Public Service Superannuation Amendment Act, 1984*.

Bill 55

An Act respecting Advertising by Governmental Organizations

Mr. Foulds

1st Reading May 4th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to control the type of advertising placed by the Government of Ontario in broadcasting and print media. The Bill prohibits the placement of advertisements by the Government of Ontario that have the effect of promoting directly or indirectly the political party to which the members of the Executive Council belong. The Bill authorizes the Commission on Election Contributions and Expenses to receive and inquire into complaints concerning government advertising. If the Commission determines that a government advertisement does directly or indirectly promote the political party to which the members of the Executive Council belong, the Government of Ontario must immediately withdraw the advertisement from further use.

Bill 55

1984

An Act respecting Advertising by Governmental Organizations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Commission" means the Commission on Election Contributions and Expenses established under the *Election Finances Reform Act*;

R.S.O. 1980,
c. 134

(b) "governmental organization" means a ministry, commission, board or other administrative unit of the Government of Ontario, and includes any agency thereof.

2. No governmental organization shall,

Political
advertising
by
government
prohibited

(a) advertise on the facilities of any broadcasting undertaking; or

(b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

if the effect of the advertisement is to promote directly or indirectly the political party to which the members of the Executive Council belong.

3.—(1) An advertisement placed by a governmental organization promotes the political party to which the members of the Executive Council belong if,

Prohibited
government
advertising

(a) the advertisement contains a logo, slogan, motto or name that is similar to or likely to be identified with a logo, slogan, motto or name of the political party;

- (b) the advertisement features a photograph or voice recording of a member of the Executive Council; or
- (c) the advertisement contravenes guidelines on government advertising established by the Commission.

Guidelines

(2) The Commission shall, within one year after the day on which this Act comes into force, establish guidelines for governmental organizations to assist such organizations in complying with section 2 when placing government advertisements.

Complaint

4.—(1) Where a person believes that a government advertisement contravenes section 2, the person may file a complaint in writing with the Commission concerning the advertisement.

Report

(2) The Commission shall inquire into every complaint and shall make a report within twenty-one days after the complaint was filed to the Speaker of the Assembly or, if the Assembly is dissolved, to the Chief Election Officer indicating whether or not, in the opinion of the Commission, the government advertisement promotes directly or indirectly the political party to which the members of the Executive Council belong.

Withdrawal
of
advertis-
ment

(3) Where the Commission determines that a government advertisement contravenes section 2, the governmental organization that placed the advertisement shall immediately cease to broadcast or publish the advertisement and, where possible, shall withdraw the advertisement from existing uses.

Public
examination
of report

(4) Upon receipt of the Commission's report, the Speaker or the Chief Election Officer, as the case may be, shall provide a copy of the report to the person who filed the complaint, shall make the report available for public examination and shall cause the report to be tabled in the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Government Advertising Control Act, 1984*.

Bill 56

An Act to amend the Election Finances Reform Act

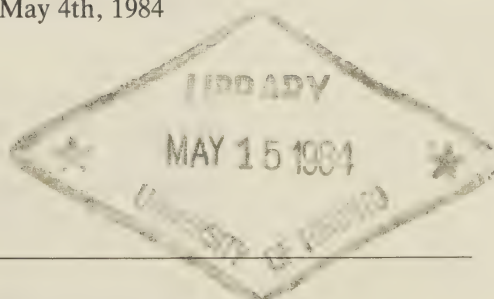
Mr. Foulds

1st Reading May 4th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to prohibit advertising by the Government of Ontario during a provincial election campaign. The Bill contains exemptions from the general prohibition for advertising related to the administration of the election and advertising required for emergency purposes.

Bill 56

1984

An Act to amend the Election Finances Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Election Finances Reform Act*, being chapter 134 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

38a.—(1) The Government of Ontario shall not, during the period between the day the writ for an election is issued and polling day, Limitation
on
government
advertising

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for any purpose.

(2) Subsection (1) does not apply, Exceptions

- (a) to any advertisement respecting the enumeration and revision of lists of voters or respecting any other matter in relation to the administration of the election; and
- (b) to any advertisement required for emergency purpose, the subject-matter of which is approved before the advertisement is broadcast or published by the leader of each political party represented in the Assembly at the time the writ for the election was issued.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Election Finances Reform Amendment Act, 1984*.

Bill 57

An Act to amend the Legislative Assembly Retirement Allowances Act

The Hon. T. L. Wells

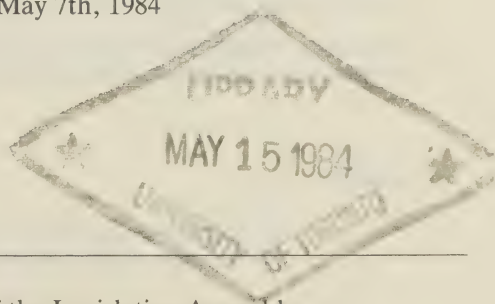
Minister of Intergovernmental Affairs

1st Reading May 7th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

SECTION 1. Section 11 of the Act (in Part I) provides for spouse's allowances. The section is re-enacted to provide benefits similar to those provided by section 19 in Part II of the Act. Provision is also made for an allowance to the child or children of a former member who dies while receiving an allowance but is not survived by a spouse.

Section 4 of the Act states that Part I applies to a person who was a member of the Assembly on the 1st day of October, 1973 and a person who was a member before such date, but does not apply to a member who has elected to contribute under Part II.

The re-enacted section 11 is deemed to have come into force on the 12th day of July, 1977, the day that a similar amendment to section 19 (in Part II of the Act) came into force.

SECTION 2. Clause 14 (a) of the Act (in Part II) defines "average annual remuneration". Subclause (ii) of the definition is amended to refer to thirty-six months instead of three fiscal years as the basis for calculations.

SECTION 3.—Subsection 1. Subsections 18 (1) and (2) of the Act (in Part II) provide for an allowance or a deferred allowance upon compliance with the sixty year rule (in the case of a person who ceased to be a member before the 1st day of October, 1977) or the fifty-five year rule (in the case of a person who ceased to be a member on or after that date). Subsection 18 (4) of the Act deals with computation of the deferred allowance but refers only to the sixty year rule. The amendment adds the reference to the fifty-five year rule.

Subsection 2. Subsection 18 (5) of the Act relates to section 23 of the Act (in Part III) under which a former member of the House of Commons of Canada who becomes a contributor under the Act could pay into the Legislative Assembly Retirement Allowances Account in respect of the refund received for contributions related to the House of Commons superannuation plan and receive credit for the period of service represented by the amount paid.

Such a person could qualify for an allowance under subsection 18 (1) or a deferred allowance under subsection 18 (2) with less than thirty-six months of service as a member for the purpose of calculating average annual remuneration. The re-enacted subsection 18 (5) deals with such a situation.

SECTION 4.—Subsection 1. Subsection (1a) is added to section 19 (in Part II) of the Act to provide for an allowance to the child or children of a former member who dies while receiving an allowance but who is not survived by a spouse.

Subsection 2. Section 18 of the Act provides for an allowance to a person who satisfies either the sixty year rule (in the case of a person who ceased to be a member before the 1st day of October, 1977) or the fifty-five year rule (in the case of a person who ceased or who ceases to be a member on or after the 1st day of October, 1977). Subsection 19 (3) of the Act, in dealing with a spouse's allowance, refers to the sixty year rule but not the fifty-five year rule. The amendments correct this omission.

SECTION 5. Clause 32 (b) of the Act provides for prescribing tables by regulation. The amendment is complementary to the re-enactment of section 11.

Bill 57

1984

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 11 of the *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

11.—(1) Where a former member who is receiving an allowance dies leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to, Spouse's allowance

- (a) 60 per cent of the allowance that the former member was receiving at the date of his or her death; and
- (b) in respect of each child under the age of eighteen years, to a maximum of three children of the former member, 10 per cent of the allowance that the former member was receiving at the date of his or her death.

(2) Where a former member who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former member under subsection (1) if the spouse had survived the former member, shall be paid to or for the child or children until such age is attained. Children's allowance

(3) Where a member dies, Computation of allowance

- (a) leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to the greater of,

(i) an amount equal to 25 per cent of the annual indemnity of the member in effect immediately before his or her death, or

(ii) an amount equal to,

A. 60 per cent of the allowance that the member had earned to the date of his or her death, and

B. in respect of each of not more than three children of the member under the age of eighteen years, 10 per cent of the allowance that the member had earned to the date of his or her death,

computed in the manner provided in section 6 or 9, as the case may be, but based on the member's service to the time of his or her death, and where the spouse dies leaving a child or children of the former member who at the date of the death of the spouse is or are under the age of eighteen years, an allowance equal to that paid or that would be paid to the spouse shall be paid to or for the child or children until such age is attained; or

(b) leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the member under clause (a) if the spouse had survived the member shall be paid to or for the child or children until such age is attained.

Option

(4) The spouse,

(a) of a person who had elected under section 6 or 9 to take a deferred allowance at age fifty-five but who died before attaining such age; or

(b) of a person who was eligible to make an election to take a deferred or an immediate allowance under section 6 or 9 but died before making the election,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have attained the age of fifty-five had he or she lived, the spouse shall be paid during his or her lifetime an allowance equal to,

(c) 60 per cent of the allowance to which the person would have been entitled at that time; and

- (d) in respect of each child under the age of eighteen years, to a maximum of three children of the person, 10 per cent of the allowance to which the person would have been entitled at that time,

or may elect to take an immediate allowance, in which case the spouse shall be paid during his or her lifetime an allowance equal to the amount calculated in accordance with clauses (c) and (d) reduced actuarially in accordance with the tables prescribed by the regulations, which the person would have been entitled to receive at the time of the spouse's election.

- (5) Where a person referred to in clause (4) (a) or (b) dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the immediate allowance provided for in subsection (4), reduced actuarially in accordance with the tables prescribed by the regulations for the purposes of subsection (4), shall be paid to or for the child or children until such age is attained. Idem

- (6) For the purposes of this section, a person who has attained the age of eighteen years but has not attained the age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Board of Internal Economy for the purposes of this section as a place of higher education shall be deemed not to have attained the age of eighteen years. Exception
for higher
education

- (2) Section 11 of the said Act, as re-enacted by subsection (1) of this section, applies in respect of every allowance payable under Part I of the said Act on or after the date on which this section is deemed to have come into force. Application
of s. 11

2.—(1) Subclause 14 (a) (ii) of the said Act is amended,

- (a) by striking out “three fiscal years” in the fifth line and inserting in lieu thereof “thirty-six months”; and
- (b) by striking out “years” where it occurs the second time in the fifth line and inserting in lieu thereof “months”.

- (2) Subclause 14 (a) (ii) of the said Act, as amended by subsection (1) of this section, does not apply in respect of a person who became or who becomes entitled to an allowance under the said Act before the day this section comes into force. Application
of subclause
as amended

3.—(1) Subsection 18 (4) of the said Act is amended by inserting after “rule” in the third line “or the fifty-five year rule, as the case requires”.

(2) Subsection 18 (5) of the said Act is repealed and the following substituted therefor:

Where
service
less than
thirty-six
months

(5) Where a person who is entitled to an allowance has been a contributor to the Legislative Assembly Retirement Allowances Account for less than thirty-six months, the allowance shall be based upon the person's average annual remuneration during the months that the person was a contributor to the Account.

4.—(1) Section 19 of the said Act is amended by adding thereto the following subsection:

Children's
allowance

(1a) Where a former member who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former member under subsection (1) if the spouse had survived the former member, shall be paid to or for the child or children until such age is attained.

(2) Subsection 19 (3) of the said Act is amended by inserting after “rule” in the fourth line and in the eleventh line “or the fifty-five year rule, as the case requires”.

5. Clause 32 (b) of the said Act is amended by inserting after “subsection 9 (4)” in the second line “section 11”.

Commence-
ment

6.—(1) This Act, except sections 1 and 4, shall be deemed to have come into force on the 1st day of April, 1981.

Idem

(2) Sections 1 and 4 shall be deemed to have come into force on the 12th day of July, 1977.

Short title

7. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1984*.

Bill 57

(Chapter 17
Statutes of Ontario, 1984)



An Act to amend the Legislative Assembly Retirement Allowances Act

The Hon. T. L. Wells
Minister of Intergovernmental Affairs

<i>1st Reading</i>	May 7th, 1984
<i>2nd Reading</i>	May 25th, 1984
<i>3rd Reading</i>	May 29th, 1984
<i>Royal Assent</i>	May 29th, 1984

Bill 57

1984

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 11 of the *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

11.—(1) Where a former member who is receiving an allowance dies leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to, Spouse's allowance

- (a) 60 per cent of the allowance that the former member was receiving at the date of his or her death; and
- (b) in respect of each child under the age of eighteen years, to a maximum of three children of the former member, 10 per cent of the allowance that the former member was receiving at the date of his or her death.

(2) Where a former member who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former member under subsection (1) if the spouse had survived the former member, shall be paid to or for the child or children until such age is attained. Children's allowance

(3) Where a member dies, Computation of allowance

- (a) leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to the greater of,

(i) an amount equal to 25 per cent of the annual indemnity of the member in effect immediately before his or her death, or

(ii) an amount equal to,

A. 60 per cent of the allowance that the member had earned to the date of his or her death, and

B. in respect of each of not more than three children of the member under the age of eighteen years, 10 per cent of the allowance that the member had earned to the date of his or her death,

computed in the manner provided in section 6 or 9, as the case may be, but based on the member's service to the time of his or her death, and where the spouse dies leaving a child or children of the former member who at the date of the death of the spouse is or are under the age of eighteen years, an allowance equal to that paid or that would be paid to the spouse shall be paid to or for the child or children until such age is attained; or

(b) leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the member under clause (a) if the spouse had survived the member shall be paid to or for the child or children until such age is attained.

Option

(4) The spouse,

(a) of a person who had elected under section 6 or 9 to take a deferred allowance at age fifty-five but who died before attaining such age; or

(b) of a person who was eligible to make an election to take a deferred or an immediate allowance under section 6 or 9 but died before making the election,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have attained the age of fifty-five had he or she lived, the spouse shall be paid during his or her lifetime an allowance equal to,

(c) 60 per cent of the allowance to which the person would have been entitled at that time; and

- (d) in respect of each child under the age of eighteen years, to a maximum of three children of the person, 10 per cent of the allowance to which the person would have been entitled at that time,

or may elect to take an immediate allowance, in which case the spouse shall be paid during his or her lifetime an allowance equal to the amount calculated in accordance with clauses (c) and (d) reduced actuarially in accordance with the tables prescribed by the regulations, which the person would have been entitled to receive at the time of the spouse's election.

(5) Where a person referred to in clause (4) (a) or (b) dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the immediate allowance provided for in subsection (4), reduced actuarially in accordance with the tables prescribed by the regulations for the purposes of subsection (4), shall be paid to or for the child or children until such age is attained. Idem

(6) For the purposes of this section, a person who has attained the age of eighteen years but has not attained the age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Board of Internal Economy for the purposes of this section as a place of higher education shall be deemed not to have attained the age of eighteen years. Exception for higher education

(2) Section 11 of the said Act, as re-enacted by subsection (1) of this section, applies in respect of every allowance payable under Part I of the said Act on or after the date on which this section is deemed to have come into force. Application of s. 11

2.—(1) Subclause 14 (a) (ii) of the said Act is amended,

- (a) by striking out “three fiscal years” in the fifth line and inserting in lieu thereof “thirty-six months”; and
- (b) by striking out “years” where it occurs the second time in the fifth line and inserting in lieu thereof “months”.

(2) Subclause 14 (a) (ii) of the said Act, as amended by subsection (1) of this section, does not apply in respect of a person who became or who becomes entitled to an allowance under the said Act before the day this section comes into force. Application of subclause as amended

3.—(1) Subsection 18 (4) of the said Act is amended by inserting after “rule” in the third line “or the fifty-five year rule, as the case requires”.

(2) Subsection 18 (5) of the said Act is repealed and the following substituted therefor:

Where
service
less than
thirty-six
months

(5) Where a person who is entitled to an allowance has been a contributor to the Legislative Assembly Retirement Allowances Account for less than thirty-six months, the allowance shall be based upon the person's average annual remuneration during the months that the person was a contributor to the Account.

4.—(1) Section 19 of the said Act is amended by adding thereto the following subsection:

Children's
allowance

(1a) Where a former member who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former member under subsection (1) if the spouse had survived the former member, shall be paid to or for the child or children until such age is attained.

(2) Subsection 19 (3) of the said Act is amended by inserting after “rule” in the fourth line and in the eleventh line “or the fifty-five year rule, as the case requires”.

5. Clause 32 (b) of the said Act is amended by inserting after “subsection 9 (4)” in the second line “section 11”.

Commence-
ment

6.—(1) This Act, except sections 1 and 4, shall be deemed to have come into force on the 1st day of April, 1981.

Idem

(2) Sections 1 and 4 shall be deemed to have come into force on the 12th day of July, 1977.

Short title

7. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1984*.

Bill 58

An Act to amend certain Acts related to Payments in Lieu of Taxes to Municipalities

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

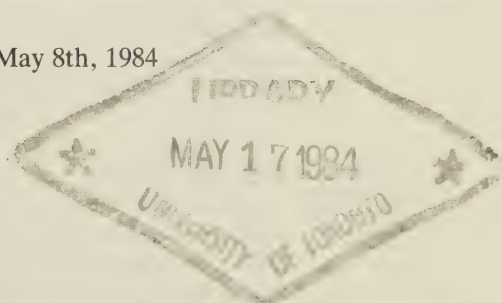
1st Reading

May 8th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

The purposes of the Bill are as follows:

1. To amend the *Municipal Tax Assistance Act*,
 - i. to provide that municipalities will be eligible to receive payments in lieu of taxes under that Act with respect to provincial parks and agricultural research stations. At present, such payments are provided for under subsection 160 (7) of the *Municipal Act* and the *Provincial Parks Municipal Tax Assistance Act*, and
 - ii. to change references to the Ministry to read as references to the Minister of Municipal Affairs and Housing.
2. To amend the *Provincial Parks Act* to provide that lands in a provincial park will be considered to be part of the municipality in which the park or a part thereof is situate for purposes of the *Municipal Tax Assistance Act*. The amendment is complementary to the repeal of the *Provincial Parks Municipal Tax Assistance Act*.
3. To amend the *Niagara Parks Act*, the *St. Clair Parkway Commission Act* and the *St. Lawrence Parks Commission Act* to provide for payments in lieu of taxes with respect to parks established under those Acts. At present, such payments are made under the *Provincial Parks Municipal Tax Assistance Act*.
4. To make amendments complementary to the amendments referred to in paragraphs 1 and 3 above to the Acts named in sections 6 to 18 of the Bill.
5. To repeal the *Provincial Parks Municipal Tax Assistance Act*.

Bill 58

1984

An Act to amend certain Acts related to Payments in Lieu of Taxes to Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (d) of the *Municipal Tax Assistance Act*, being chapter 311 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “Minister” means the Minister of Municipal Affairs and Housing.

(2) Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) This Act does not apply to unpatented lands, parks operated under the *Niagara Parks Act*, the *St. Clair Parkway Commission Act* or the *St. Lawrence Parks Commission Act*, hospitals, penal institutions, educational institutions, museums, libraries, highways, correctional institutions, cemeteries, minerals, cooling stations, weigh-scales and inspection stations, fish hatcheries, provincial forests and real property that is subject to municipal taxation under section 17 of the *Assessment Act*.

Non-appli-
cation
R.S.O. 1980,
cc. 317, 485,
486, 31

(2) The Minister may decide as to whether this Act applies to any provincial property and the Minister’s decision is final.

Minister’s
decision

(3) Section 4 of the said Act is amended by striking out “Ministry” where it occurs in subsections (1), (3) and (5) and inserting in lieu thereof in each instance “Minister” and by adding thereto the following subsections:

(9) For the purposes of this section, in the year 1984, the Minister of Revenue shall provide the Minister with an estimated assessed value of each agricultural research station, provincial park, historical park and wilderness area or the part of any such station, park or area within each municipality, and

Estimated
assessed
value

such values shall be used as the assessed value of the property for the purposes of payments to be made for the year 1984.

Minimum payable re agricultural stations and provincial parks

(10) Notwithstanding any other provision of this Act, the minimum amount payable under subsections (1) and (2) to a municipality in respect of agricultural research stations, provincial parks, historical parks and wilderness areas situate in the municipality shall be an amount equal to the amount the municipality was entitled to receive in 1983 under subsection 160 (7) of the *Municipal Act* and section 4 of the *Provincial Parks Municipal Tax Assistance Act* as those provisions read on the 31st day of December, 1983.

R.S.O. 1980, cc. 302, 402

Municipal assessment deemed increased

(11) For the purposes of any general or special Act, the equalized assessment of a municipality that receives a payment under subsection (10) shall be deemed for apportionment purposes, other than for school purposes or for county purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000.

Exclusion of certain taxes

(12) In determining the taxes levied on commercial and industrial assessment under subsection (11), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*.

R.S.O. 1980, c. 31

(4) Section 5 of the said Act is repealed and the following substituted therefor:

Payment by Minister

5. The Minister may make a payment under this Act on behalf of any ministry or Crown agency and the payment may be recovered from the ministry or Crown agency on whose behalf the payment was made.

2. Section 3 of the *Provincial Parks Act*, being chapter 401 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Tax assistance, assessment
R.S.O. 1980, c. 311

(7) Notwithstanding subsection (5), for the purposes of the *Municipal Tax Assistance Act*, any land set apart as a provincial park or added thereto shall be deemed not to be separated from the municipality of which it formed a part immediately before it became a provincial park or a part thereof.

3. The *Niagara Parks Act*, being chapter 317 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

14a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

Payments
in lieu
of taxes

- (a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

- (b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually,

Determi-
nations

- (a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and
- (b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

(3) For the purposes of the *Regional Municipality of Hamilton-Wentworth Act* and the *Regional Municipality of Niagara Act*, the equalized assessment of an area municipality that receives a payment under this Act shall be deemed for apportionment purposes, other than for school purposes, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000.

Municipal
assessment
deemed
increased
R.S.O. 1980,
cc. 437, 438

(4) In determining the taxes levied on commercial and industrial assessment under subsection (3), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*.

Exclusion
of certain
taxes

R.S.O. 1980,
c. 31

4. The *St. Clair Parkway Commission Act*, being chapter 485 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Payments
in lieu
of taxes

14a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

(a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

(b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

Determi-
nations

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually,

(a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and

(b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

5. The *St. Lawrence Parks Commission Act*, being chapter 486 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Payments
in lieu
of taxes

12a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

(a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

(b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually, Determi-
nations

- (a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and
- (b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

6. Subsection 97 (10) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

7. Subsection 79 (10) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

8. Subsection 90 (10) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

9. Subsection 101 (10) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines and inserting in lieu thereof "section 14a of the *Niagara Parks Act*".

10. Subsection 121 (11) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out "section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

11. Subsection 85 (10) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the

Provincial Parks Municipal Tax Assistance Act” in the tenth and eleventh lines.

12. Subsection 71 (11) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

13. Subsection 118 (11) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

14. Subsection 74 (10) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

15. Subsection 86 (10) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

16. Clause 3 (2) (b) of the *County of Haliburton Act, 1982*, being chapter 57, is amended by striking out “*Provincial Parks Municipal Tax Assistance Act*” in the first and second lines and inserting in lieu thereof “*Municipal Tax Assistance Act*”.

17. The Schedule to the *Ministry of Municipal Affairs and Housing Act, 1981*, being chapter 19, is amended by striking out “*Provincial Parks Municipal Tax Assistance Act*”.

18.—(1) Subsection 160 (7) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Sub-subclause F of subclause 365 (1) (j) (ii) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 485

F. section 14a of the *St. Clair Parkway Commission Act*,

R.S.O. 1980,
c. 486

G. section 12a of the *St. Lawrence Parks Commission Act*.

19. The *Provincial Parks Municipal Tax Assistance Act*, being chapter 402 of the Revised Statutes of Ontario, 1980, is repealed.

20. This Act shall be deemed to have come into force on the 1st day of January, 1984. Commence-
ment

21. The short title of this Act is the *Municipal Payments in Lieu of Taxes Statute Law Amendment Act, 1984*. Short title

Bill 58

(Chapter 45
Statutes of Ontario, 1984)

An Act to amend certain Acts related to Payments in Lieu of Taxes to Municipalities

The Hon. C. Bennett

Minister of Municipal Affairs and Housing



<i>1st Reading</i>	May 8th, 1984
<i>2nd Reading</i>	November 1st, 1984
<i>3rd Reading</i>	November 23rd, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 58

1984

**An Act to amend certain Acts related to
Payments in Lieu of Taxes to Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (d) of the *Municipal Tax Assistance Act*, being chapter 311 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(d) “Minister” means the Minister of Municipal Affairs and Housing.

(2) Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) This Act does not apply to unpatented lands, parks operated under the *Niagara Parks Act*, the *St. Clair Parkway Commission Act* or the *St. Lawrence Parks Commission Act*, hospitals, penal institutions, educational institutions, museums, libraries, highways, correctional institutions, cemeteries, minerals, cooling stations, weigh-scales and inspection stations, fish hatcheries, provincial forests and real property that is subject to municipal taxation under section 17 of the *Assessment Act*.

Non-appli-
cation
R.S.O. 1980,
cc. 317, 485,
486, 31

(2) The Minister may decide as to whether this Act applies to any provincial property and the Minister's decision is final.

Minister's
decision

(3) Section 4 of the said Act is amended by striking out “Ministry” where it occurs in subsections (1), (3) and (5) and inserting in lieu thereof in each instance “Minister” and by adding thereto the following subsections:

(9) For the purposes of this section, in the year 1984, the Minister of Revenue shall provide the Minister with an estimated assessed value of each agricultural research station, provincial park, historical park and wilderness area or the part of any such station, park or area within each municipality, and

Estimated
assessed
value

such values shall be used as the assessed value of the property for the purposes of payments to be made for the year 1984.

Minimum payable re agricultural stations and provincial parks

R.S.O. 1980, cc. 302, 402

(10) Notwithstanding any other provision of this Act, the minimum amount payable under subsections (1) and (2) to a municipality in respect of agricultural research stations, provincial parks, historical parks and wilderness areas situate in the municipality shall be an amount equal to the amount the municipality was entitled to receive in 1983 under subsection 160 (7) of the *Municipal Act* and section 4 of the *Provincial Parks Municipal Tax Assistance Act* as those provisions read on the 31st day of December, 1983.

Municipal assessment deemed increased

(11) For the purposes of any general or special Act, the equalized assessment of a municipality that receives a payment under subsection (10) shall be deemed for apportionment purposes, other than for school purposes or for county purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000.

Exclusion of certain taxes

R.S.O. 1980, c. 31

(12) In determining the taxes levied on commercial and industrial assessment under subsection (11), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*.

(4) Section 5 of the said Act is repealed and the following substituted therefor:

Payment by Minister

5. The Minister may make a payment under this Act on behalf of any ministry or Crown agency and the payment may be recovered from the ministry or Crown agency on whose behalf the payment was made.

2. Section 3 of the *Provincial Parks Act*, being chapter 401 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Tax assistance, assessment
R.S.O. 1980, c. 311

(7) Notwithstanding subsection (5), for the purposes of the *Municipal Tax Assistance Act*, any land set apart as a provincial park or added thereto shall be deemed not to be separated from the municipality of which it formed a part immediately before it became a provincial park or a part thereof.

3. The *Niagara Parks Act*, being chapter 317 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

14a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

Payments
in lieu
of taxes

(a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

(b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually,

Determi-
nations

(a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and

(b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

(3) For the purposes of the *Regional Municipality of Hamilton-Wentworth Act* and the *Regional Municipality of Niagara Act*, the equalized assessment of an area municipality that receives a payment under this Act shall be deemed for apportionment purposes, other than for school purposes, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000.

Municipal
assessment
deemed
increased
R.S.O. 1980,
cc. 437, 438

(4) In determining the taxes levied on commercial and industrial assessment under subsection (3), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*.

Exclusion
of certain
taxes

R.S.O. 1980,
c. 31

4. The *St. Clair Parkway Commission Act*, being chapter 485 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Payments
in lieu
of taxes

14a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

- (a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

- (b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

Determi-
nations

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually,

- (a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and
- (b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

5. The *St. Lawrence Parks Commission Act*, being chapter 486 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Payments
in lieu
of taxes

12a.—(1) The Minister of Municipal Affairs and Housing may pay in each year to a municipality in which there are one or more parks operated by the Commission,

- (a) \$12.35 per hectare for each of the first forty hectares of each such park and \$5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and \$1.25 per hectare for each hectare in excess of 4,000 hectares in each such park; or

- (b) \$100,

whichever is the greater, and the Minister shall recover such payments out of the funds of the Commission.

(2) For the purposes of subsection (1), the Minister of Municipal Affairs and Housing shall determine annually, Determinations

- (a) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more parks or any part thereof; and
- (b) the number of hectares to the nearest whole hectare in each park or part thereof so located within each such municipality,

and the Minister's determination is final.

6. Subsection 97 (10) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

7. Subsection 79 (10) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

8. Subsection 90 (10) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

9. Subsection 101 (10) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines and inserting in lieu thereof "section 14a of the *Niagara Parks Act*".

10. Subsection 121 (11) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out "section 4 of the *Provincial Parks Municipal Tax Assistance Act*" in the tenth and eleventh lines.

11. Subsection 85 (10) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by striking out "and section 4 of the

Provincial Parks Municipal Tax Assistance Act” in the tenth and eleventh lines.

12. Subsection 71 (11) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

13. Subsection 118 (11) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

14. Subsection 74 (10) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by striking out “section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

15. Subsection 86 (10) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “and section 4 of the *Provincial Parks Municipal Tax Assistance Act*” in the tenth and eleventh lines.

16. Clause 3 (2) (b) of the *County of Haliburton Act, 1982*, being chapter 57, is amended by striking out “*Provincial Parks Municipal Tax Assistance Act*” in the first and second lines and inserting in lieu thereof “*Municipal Tax Assistance Act*”.

17. The Schedule to the *Ministry of Municipal Affairs and Housing Act, 1981*, being chapter 19, is amended by striking out “*Provincial Parks Municipal Tax Assistance Act*”.

18.—(1) Subsection 160 (7) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Sub-subclause F of subclause 365 (1) (j) (ii) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 485

F. section 14a of the *St. Clair Parkway Commission Act*,

R.S.O. 1980,
c. 486

G. section 12a of the *St. Lawrence Parks Commission Act*.

19. The *Provincial Parks Municipal Tax Assistance Act*, being chapter 402 of the Revised Statutes of Ontario, 1980, is repealed.

20. This Act shall be deemed to have come into force on the 1st day of January, 1984. Commence-
ment

21. The short title of this Act is the *Municipal Payments in Lieu of Taxes Statute Law Amendment Act, 1984*. Short title

Bill 59

An Act to amend the Ontario Unconditional Grants Act

The Hon. C. Bennett

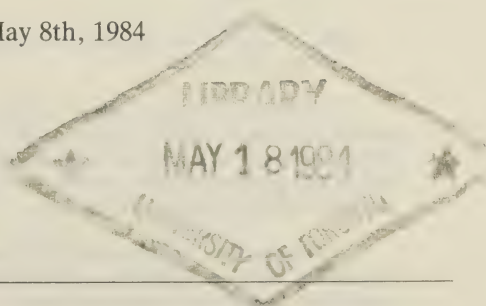
Minister of Municipal Affairs and Housing

1st Reading May 8th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

GENERAL. Grants that were formerly based on the population of a municipality will now be based on the number of households in that municipality. Grants to all municipalities providing their own law enforcement will now be calculated on the same basis. Provision is made for a new revenue guarantee grant in order to stabilize the total amount of grants received by any municipality from year to year. Provision is made for a change in the amount of various "per household" grants by regulation.

SECTION 1. Except for subsection (3), the amendments are consequential on the change from a "per capita" to a "per household" basis in calculating grants. Subsection (3) brings up to date the reference to the responsible Minister.

SECTION 2. Section 2 of the Act now provides for the payment of per capita grants to regional municipalities, based on the population of their constituent area municipalities. The re-enacted section provides for the payment of grants to those municipalities based instead on the number of households in their area municipalities. The amount of the grant is now \$11 per capita plus \$17 per capita in the case where the regional municipality is deemed to be a city for the purposes of the *Police Act*. The re-enacted section provides for the payment to each regional municipality of an amount of \$30 per household. (See section 2b of the Act as set out in section 3 of the Bill, for payments made to regional municipalities providing their own law enforcement). The amount of \$30 may be changed by regulations made by the Lieutenant Governor in Council.

SECTION 3. Section 2a of the Act now provides for the payment to each area municipality of an amount per capita, based on density, in accordance with Schedule 1 to the Act. The re-enacted section provides for the payment of an amount per household, based on density. (See section 9 of the Bill for the re-enactment of Schedule 1). The amount per household based on density may be changed by regulations made by the Lieutenant Governor in Council.

Section 2b of the Act now provides for the payment of \$12 per capita to area municipalities providing their own law enforcement. The re-enacted section provides for the payment of \$47 per household to every municipality, whether upper tier (regional municipalities and counties) or lower tier (cities, towns, villages, townships and improvement districts), that provides its own law enforcement.

SECTION 4. Sections 3 and 3a of the Act now read as follows:

3. Any payments received under section 2 by a regional municipality shall be credited by the regional municipality to its general funds.

3a. Notwithstanding section 3, in each year, The Municipality of Metropolitan Toronto, The Regional Municipality of Peel and The District Municipality of Muskoka may credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of,

(a) \$11; and

(b) \$17 where the regional municipality is deemed to be a city for the purposes of the Police Act.

The re-enacted subsection 3 (1) provides that payments received by a regional municipality under section 2 (the general per household grant) and section 2b (the per household grant to a regional municipality providing its own law enforcement) be credited to the general funds of the regional municipality. It carries forward the same principle now found in section 3 of the Act.

New subsection 3 (2) permits The Regional Municipality of Peel to instead credit its constituent area municipalities with the appropriate amounts, based on the number of households in each such area municipality.

SECTION 5. Section 4 of the Act now provides for the payment of per capita grants to lower tier municipalities (other than area municipalities) of \$11 plus an additional \$12 where the lower tier municipality provides its own law enforcement. The re-enacted section provides for the payment to each such lower tier municipality of an amount of \$30 per household. (See section 2b of the Act, as set out in section 3 of the Bill, for the payments made to lower tier municipalities providing their own law enforcement). The amount of \$30 per household may be changed by regulations made by the Lieutenant Governor in Council.

SECTION 6.—Subsection 1. The amendment is consequential on the change in the method of calculating grants to one based on the number of households in a municipality.

Subsection 2. Subsection 8 (3) proposed to be repealed, provides for the payment of grants to municipalities that would otherwise experience increases in taxation by reason of a revised resource equalization grant. Subsection 8 (5) now reads as follows:

(5) The clerk of every lower tier municipality upon receiving notice from the Ministry of the amount of resource equalization grant shall provide to the upper tier municipality a statement of the total grant and the portion payable to the upper tier municipality.

This notice requirement is being repealed as unnecessary.

SECTION 7. The section added provides for the payment of a revenue guarantee grant to municipalities where necessary to stabilize the total grants received under the Act from year to year, except in respect of grants paid under section 5 (to reduce undue increases in taxation arising out of various specified occurrences) and section 9a (grants made for the purpose of limiting shifts in taxation caused by a change in the apportionment formula or equalization factors).

SECTION 8. Clause 14 (1) (e) now provides for regulations to be made by the Lieutenant Governor in Council prescribing the manner in which population is to be determined—no longer required in view of the “per household” method of calculating grants. The re-enacted clause will authorize regulations to be made permitting the Minister to make certain revisions to the financial data furnished by a municipality for the purpose of calculating grants.

SECTION 9. The Schedule is re-enacted to reflect the calculation of grants to area municipalities based on density on a “per household” rather than a “per capita” basis. (See the Note to section 3 of the Bill).

Bill 59

1984

**An Act to amend the
Ontario Unconditional Grants Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, is amended by striking out “residential properties” in the first and second lines and inserting in lieu thereof “households”.

(2) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 1, is further amended by adding thereto the following clause:

(da) “household” means a parcel of land separately assessed under paragraph 2 of subsection 13 (2) of the *Assessment Act* according to the last returned assessment roll that is used or intended to be used as a residence, except that in respect of a Canadian Forces Base, “household” means a self-contained living unit consisting of two or more rooms in which the occupants usually sleep and prepare and serve meals.

R.S.O. 1980,
c. 31

(3) Clause 1 (1) (g) of the said Act is repealed and the following substituted therefor:

(g) “Minister” means the Minister of Municipal Affairs and Housing.

(4) Clause 1 (1) (k) of the said Act is repealed.

(5) Subsection 1 (2) of the said Act is repealed.

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 2 and 1982, chapter 14, section 1, is repealed and the following substituted therefor:

Grants per household

2. In each year there shall be paid to every regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in the area municipalities in that regional municipality.

3. Sections 2a and 2b of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 2, are repealed and the following substituted therefor:

Payments to area municipalities

2a. In each year there shall be paid to every area municipality an amount per household based on the density of the area municipality in accordance with Schedule 1 or such other amount per household based on density as may be prescribed.

Payments to upper tier and lower tier municipalities providing law enforcement
R.S.O. 1980, c. 381

2b. In each year a payment of \$47 per household, or such other amount per household as may be prescribed, shall be made to every upper tier municipality and lower tier municipality providing its own law enforcement in accordance with the *Police Act* by maintaining its own police force or by having an agreement for the policing of the municipality by the police force of another municipality or by being under contract for the policing of the municipality by the Ontario Provincial Police Force.

4. Section 3, as re-enacted by the Statutes of Ontario, 1982, chapter 14, section 3 and section 3a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 3, are repealed and the following substituted therefor:

Payments credited to general funds

3.—(1) Any payments received under sections 2 and 2b by a regional municipality shall be credited by the regional municipality to its general funds.

Credit to area municipalities

(2) Notwithstanding subsection (1), in each year, The Regional Municipality of Peel may credit each area municipality situate in that regional municipality with an amount calculated by multiplying the number of households of the area municipality by the sum of the grants payable per household under sections 2 and 2b.

5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 14, section 4, is repealed and the following substituted therefor:

General grant per household

4. In each year there shall be paid to every lower tier municipality not situate in a regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in that municipality.

6.—(1) Subsection 8 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7, is amended by striking out “capita” where it occurs in the third, fifth, eighth and ninth lines and inserting in lieu thereof in each instance “household”.

(2) Subsections 8 (3) and (5) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 9, section 7, are repealed.

7. The said Act is amended by adding thereto the following section:

8a. In each year there may be paid to any upper tier municipality and to any lower tier municipality a revenue guarantee grant in order to stabilize the total amount of grants received from year to year under this Act except for grants received under sections 5 and 9a, subject to such terms and conditions as may be prescribed.

Revenue
guarantee
grants

8. Clause 14 (1) (e) of the said Act is repealed and the following substituted therefor:

(e) providing, for the purpose of calculating grants under this Act, for the revision by the Minister of financial data furnished by a municipality.

9. Schedule 1 to the said Act is repealed and the following substituted therefor:

SCHEDULE 1

Density	Amount Per Household
0.375 and under	\$14.00
Over 0.375 to and including 0.750	11.20
Over 0.750 to and including 1.125	8.40
Over 1.125 to and including 1.500	5.60
Over 1.500 to and including 1.875	2.80
Over 1.875	Nil

Commence-
ment

10. This Act shall be deemed to have come into force on the 1st day of January, 1984.

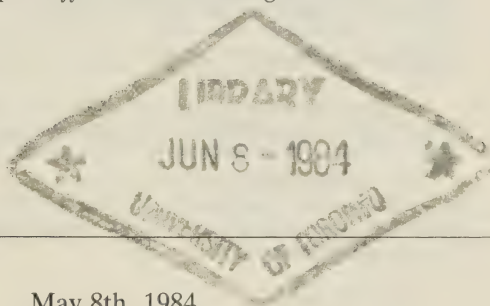
Short title

11. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1984*.

Bill 59

An Act to amend the Ontario Unconditional Grants Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing



1st Reading May 8th, 1984
2nd Reading May 29th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

GENERAL. Grants that were formerly based on the population of a municipality will now be based on the number of households in that municipality. Grants to all municipalities providing their own law enforcement will now be calculated on the same basis. Provision is made for a new revenue guarantee grant in order to stabilize the total amount of grants received by any municipality from year to year. Provision is made for a change in the amount of various "per household" grants by regulation.

SECTION 1. Except for subsection (3), the amendments are consequential on the change from a "per capita" to a "per household" basis in calculating grants. Subsection (3) brings up to date the reference to the responsible Minister.

SECTION 2. Section 2 of the Act now provides for the payment of per capita grants to regional municipalities, based on the population of their constituent area municipalities. The re-enacted section provides for the payment of grants to those municipalities based instead on the number of households in their area municipalities. The amount of the grant is now \$11 per capita plus \$17 per capita in the case where the regional municipality is deemed to be a city for the purposes of the *Police Act*. The re-enacted section provides for the payment to each regional municipality of an amount of \$30 per household. (See section 2b of the Act as set out in section 3 of the Bill, for payments made to regional municipalities providing their own law enforcement). The amount of \$30 may be changed by regulations made by the Lieutenant Governor in Council.

SECTION 3. Section 2a of the Act now provides for the payment to each area municipality of an amount per capita, based on density, in accordance with Schedule 1 to the Act. The re-enacted section provides for the payment of an amount per household, based on density. (See section 9 of the Bill for the re-enactment of Schedule 1). The amount per household based on density may be changed by regulations made by the Lieutenant Governor in Council.

Section 2b of the Act now provides for the payment of \$12 per capita to area municipalities providing their own law enforcement. The re-enacted section provides for the payment of \$47 per household to every municipality, whether upper tier (regional municipalities and counties) or lower tier (cities, towns, villages, townships and improvement districts), that provides its own law enforcement.

SECTION 4. Sections 3 and 3a of the Act now read as follows:

3. Any payments received under section 2 by a regional municipality shall be credited by the regional municipality to its general funds.

3a. Notwithstanding section 3, in each year, The Municipality of Metropolitan Toronto, The Regional Municipality of Peel and The District Municipality of Muskoka may credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of,

(a) \$11; and

(b) \$17 where the regional municipality is deemed to be a city for the purposes of the Police Act.

The re-enacted subsection 3 (1) provides that payments received by a regional municipality under section 2 (the general per household grant) and section 2b (the per household grant to a regional municipality providing its own law enforcement) be credited to the general funds of the regional municipality. It carries forward the same principle now found in section 3 of the Act.

New subsection 3 (2) permits The Regional Municipality of Peel to instead credit its constituent area municipalities with the appropriate amounts, based on the number of households in each such area municipality.

SECTION 5. Section 4 of the Act now provides for the payment of per capita grants to lower tier municipalities (other than area municipalities) of \$11 plus an additional \$12 where the lower tier municipality provides its own law enforcement. The re-enacted section provides for the payment to each such lower tier municipality of an amount of \$30 per household. (See section 2b of the Act, as set out in section 3 of the Bill, for the payments made to lower tier municipalities providing their own law enforcement). The amount of \$30 per household may be changed by regulations made by the Lieutenant Governor in Council.

SECTION 6. The amendment rectifies an incorrect reference created in the Revised Statutes of Ontario, 1980.

SECTION 7.—Subsection 1. The amendment is consequential on the change in the method of calculating grants to one based on the number of households in a municipality.

Subsection 2. Subsection 8 (3) proposed to be repealed, provides for the payment of grants to municipalities that would otherwise experience increases in taxation by reason of a revised resource equalization grant. Subsection 8 (5) now reads as follows:

(5) The clerk of every lower tier municipality upon receiving notice from the Ministry of the amount of resource equalization grant shall provide to the upper tier municipality a statement of the total grant and the portion payable to the upper tier municipality.

This notice requirement is being repealed as unnecessary.

SECTION 8. The section added provides for the payment of a revenue guarantee grant to municipalities where necessary to stabilize the total grants received under the Act from year to year, except in respect of grants paid under section 5 (to reduce undue increases in taxation arising out of various specified occurrences) and section 9a (grants made for the purpose of limiting shifts in taxation caused by a change in the apportionment formula or equalization factors).

SECTION 9. Clause 14 (1) (e) now provides for regulations to be made by the Lieutenant Governor in Council prescribing the manner in which population is to be determined—no longer required in view of the “per household” method of calculating grants. The re-enacted clause will authorize regulations to be made permitting the Minister to make certain revisions to the financial data furnished by a municipality for the purpose of calculating grants.

SECTION 10. The Schedule is re-enacted to reflect the calculation of grants to area municipalities based on density on a “per household” rather than a “per capita” basis. (See the Note to section 3 of the Bill).

Bill 59

1984

An Act to amend the Ontario Unconditional Grants Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, is amended by striking out “residential properties” in the first and second lines and inserting in lieu thereof “households”.

(2) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 1, is further amended by adding thereto the following clause:

(da) “household” means a parcel of land separately assessed under paragraph 2 of subsection 13 (2) of the *Assessment Act* according to the last returned assessment roll that is used or intended to be used as a residence, except that in respect of a Canadian Forces Base, “household” means a self-contained living unit consisting of two or more rooms in which the occupants usually sleep and prepare and serve meals.

R.S.O. 1980,
c. 31

(3) Clause 1 (1) (g) of the said Act is repealed and the following substituted therefor:

(g) “Minister” means the Minister of Municipal Affairs and Housing.

(4) Clause 1 (1) (k) of the said Act is repealed.

(5) Subsection 1 (2) of the said Act is repealed.

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 2 and 1982, chapter 14, section 1, is repealed and the following substituted therefor:

Grants per household

2. In each year there shall be paid to every regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in the area municipalities in that regional municipality.

3. Sections 2a and 2b of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 2, are repealed and the following substituted therefor:

Payments to area municipalities

2a. In each year there shall be paid to every area municipality an amount per household based on the density of the area municipality in accordance with Schedule 1 or such other amount per household based on density as may be prescribed.

Payments to upper tier and lower tier municipalities providing law enforcement
R.S.O. 1980, c. 381

2b. In each year a payment of \$47 per household, or such other amount per household as may be prescribed, shall be made to every upper tier municipality and lower tier municipality providing its own law enforcement in accordance with the *Police Act* by maintaining its own police force or by having an agreement for the policing of the municipality by the police force of another municipality or by being under contract for the policing of the municipality by the Ontario Provincial Police Force.

4. Section 3, as re-enacted by the Statutes of Ontario, 1982, chapter 14, section 3 and section 3a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 3, are repealed and the following substituted therefor:

Payments credited to general funds

3.—(1) Any payments received under sections 2 and 2b by a regional municipality shall be credited by the regional municipality to its general funds.


Credit to area municipalities

(2) Notwithstanding subsection (1), in each year, The Regional Municipality of Peel may credit each area municipality situate in that regional municipality with an amount calculated by multiplying the number of households of the area municipality by the sum of the grants payable per household under sections 2 and 2b.

5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 14, section 4, is repealed and the following substituted therefor:

General grant per household

4. In each year there shall be paid to every lower tier municipality not situate in a regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in that municipality.

6. Clause 7 (1) (e) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 6, is further amended by striking out “subclauses 1 (1) (c) (i) and (iii)” in the fourth line and inserting in lieu thereof “subclauses 1 (1) (b) (i) and (iii)”. 

7.—(1) Subsection 8 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7, is amended by striking out “capita” where it occurs in the third, fifth, eighth and ninth lines and inserting in lieu thereof in each instance “household”.

(2) Subsections 8 (3) and (5) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 9, section 7, are repealed.

8. The said Act is amended by adding thereto the following section:

8a. In each year there may be paid to any upper tier municipality and to any lower tier municipality a revenue guarantee grant in order to stabilize the total amount of grants received from year to year under this Act except for grants received under sections 5 and 9a, subject to such terms and conditions as may be prescribed.

Revenue
guarantee
grants

9. Clause 14 (1) (e) of the said Act is repealed and the following substituted therefor:

(e) providing, for the purpose of calculating grants under this Act, for the revision by the Minister of financial data furnished by a municipality.

10. Schedule 1 to the said Act is repealed and the following substituted therefor:

SCHEDULE 1

Density	Amount Per Household
0.375 and under	\$14.00
Over 0.375 to and including 0.750	11.20
Over 0.750 to and including 1.125	8.40
Over 1.125 to and including 1.500	5.60
Over 1.500 to and including 1.875	2.80
Over 1.875	Nil

Commence-
ment

11. This Act shall be deemed to have come into force on the 1st day of January, 1984.

Short title

12. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1984*.

Bill 59

*(Chapter 23
Statutes of Ontario, 1984)*

An Act to amend the Ontario Unconditional Grants Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	May 8th, 1984
<i>2nd Reading</i>	May 29th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 59

1984

An Act to amend the Ontario Unconditional Grants Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Ontario Unconditional Grants Act*, being chapter 359 of the Revised Statutes of Ontario, 1980, is amended by striking out “residential properties” in the first and second lines and inserting in lieu thereof “households”.

(2) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 1, is further amended by adding thereto the following clause:

(da) “household” means a parcel of land separately assessed under paragraph 2 of subsection 13 (2) of the *Assessment Act* according to the last returned assessment roll that is used or intended to be used as a residence, except that in respect of a Canadian Forces Base, “household” means a self-contained living unit consisting of two or more rooms in which the occupants usually sleep and prepare and serve meals.

R.S.O. 1980,
c. 31

(3) Clause 1 (1) (g) of the said Act is repealed and the following substituted therefor:

(g) “Minister” means the Minister of Municipal Affairs and Housing.

(4) Clause 1 (1) (k) of the said Act is repealed.

(5) Subsection 1 (2) of the said Act is repealed.

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 2 and 1982, chapter 14, section 1, is repealed and the following substituted therefor:

Grants per
household

2. In each year there shall be paid to every regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in the area municipalities in that regional municipality.

3. Sections 2a and 2b of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 2, are repealed and the following substituted therefor:

Payments
to area
municipalities

2a. In each year there shall be paid to every area municipality an amount per household based on the density of the area municipality in accordance with Schedule 1 or such other amount per household based on density as may be prescribed.

Payments to
upper tier
and
lower tier
municipalities
providing law
enforcement
R.S.O. 1980,
c. 381

2b. In each year a payment of \$47 per household, or such other amount per household as may be prescribed, shall be made to every upper tier municipality and lower tier municipality providing its own law enforcement in accordance with the *Police Act* by maintaining its own police force or by having an agreement for the policing of the municipality by the police force of another municipality or by being under contract for the policing of the municipality by the Ontario Provincial Police Force.

4. Section 3, as re-enacted by the Statutes of Ontario, 1982, chapter 14, section 3 and section 3a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 14, section 3, are repealed and the following substituted therefor:

Payments
credited to
general funds

3.—(1) Any payments received under sections 2 and 2b by a regional municipality shall be credited by the regional municipality to its general funds.

Credit to
area
municipalities

(2) Notwithstanding subsection (1), in each year, The Regional Municipality of Peel may credit each area municipality situate in that regional municipality with an amount calculated by multiplying the number of households of the area municipality by the sum of the grants payable per household under sections 2 and 2b.

5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 14, section 4, is repealed and the following substituted therefor:

4. In each year there shall be paid to every lower tier municipality not situate in a regional municipality a general grant of \$30 per household, or such other amount per household as may be prescribed, based on the number of households in that municipality.

General
grant per
household

6. Clause 7 (1) (e) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 9, section 6, is further amended by striking out “subclauses 1 (1) (c) (i) and (iii)” in the fourth line and inserting in lieu thereof “subclauses 1 (1) (b) (i) and (iii)”.

7.—(1) Subsection 8 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 9, section 7, is amended by striking out “capita” where it occurs in the third, fifth, eighth and ninth lines and inserting in lieu thereof in each instance “household”.

(2) Subsections 8 (3) and (5) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 9, section 7, are repealed.

8. The said Act is amended by adding thereto the following section:

8a. In each year there may be paid to any upper tier municipality and to any lower tier municipality a revenue guarantee grant in order to stabilize the total amount of grants received from year to year under this Act except for grants received under sections 5 and 9a, subject to such terms and conditions as may be prescribed.

Revenue
guarantee
grants

9. Clause 14 (1) (e) of the said Act is repealed and the following substituted therefor:

- (e) providing, for the purpose of calculating grants under this Act, for the revision by the Minister of financial data furnished by a municipality.

10. Schedule 1 to the said Act is repealed and the following substituted therefor:

SCHEDULE 1

Density	Amount Per Household
0.375 and under	\$14.00
Over 0.375 to and including 0.750	11.20
Over 0.750 to and including 1.125	8.40
Over 1.125 to and including 1.500	5.60
Over 1.500 to and including 1.875	2.80
Over 1.875	Nil

Commence-
ment

11. This Act shall be deemed to have come into force on the 1st day of January, 1984.

Short title

12. The short title of this Act is the *Ontario Unconditional Grants Amendment Act, 1984*.

Bill 60

An Act to amend the Municipal Act

The Hon. C. Bennett

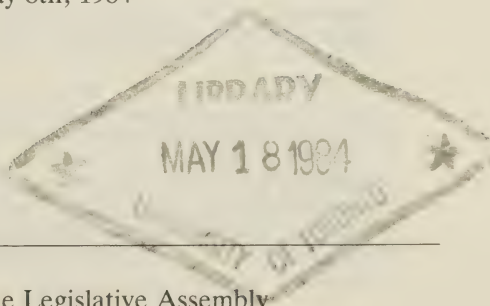
Minister of Municipal Affairs and Housing

1st Reading May 8th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

SECTION 1. The re-enactment of paragraph 22 of section 1, deletes an obsolete reference to biennial elections.

SECTIONS 2 and 3. The repeal of section 59 and the re-enactment of subsection 72 (2) will have the effect of consolidating and simplifying the provisions of the Act related to the appointment of an acting head of council.

SECTION 4. The repeal of subsection 77 (4) is complementary to the enactment of section 78a as set out in section 6 of the Bill.

SECTION 5. The re-enactment of subsection 78 (2) changes references to the *Planning Act* (R.S.O. 1980, c. 379) to references to the *Planning Act, 1983* (c. 1). The repeal of subsection 78 (3) is complementary to the enactment of section 78b as set out in section 6 of the Bill.

SECTION 6. The proposed section 78a authorizes municipalities and local boards to transfer their documents to the Provincial Archivist.

The proposed section 78b provides for the receiving in evidence of documents of a municipality that are in the possession of the clerk or the Archivist.

SECTION 7. The re-enactment of subsection 98 (5) clarifies that costs may be awarded to a local board in proceedings in which the local board is represented by a lawyer who is a salaried officer of the local board or of a municipality acting on behalf of the local board.

SECTION 8. The proposed subsection 122 (2a) authorizes a municipality to enter agreements with any other municipality located in Canada or the United States related to the use of the property and staff of the municipality by the other municipality and vice versa.

SECTION 9. The amendment deletes a requirement for the approval by the Minister of agreements made under paragraph 58 of section 208.

SECTION 10. Section 209 is now considered to be obsolete and it is proposed that the section be repealed. Section 209 provides for the making of certain grants and for the establishment of emergency measures civil defence organizations. The power of municipalities to make grants is now set out in section 113 of the Act which was enacted in 1980. Emergency plans are now provided for in the *Emergency Plans Act, 1983*.

SECTION 11.—Subsection 1. Clause (b) of paragraph 96 of section 210 requires fees to be paid by municipal corporations to school boards with respect to children who live in municipally owned trailer camps or parks. The proposed clause (c) exempts municipalities from this requirement if the trailers are liable for assessment and taxation under the *Assessment Act*.

Subsection 2. The re-enactment of clause (d) of paragraph 125 corrects an internal reference to subsection 321a (1) of the Act.

SECTION 12. Clause 211 (1) (b) is amended to add hairstyling establishments and hair-dressing establishments to the list of businesses that are included in the definition of shop for the purpose of regulating closing hours.

SECTION 13. Clause (a) of paragraph 3 of section 225 is now obsolete and it is proposed that the clause be repealed. The clause dispensed with the need for obtaining the assent of the electors where a county council proposed to establish a county farm. Under amendments to the Act in 1982, the requirement for the assent of the electors was eliminated with respect to money by-laws.

SECTION 14. The proposed re-enactment of paragraph 2 of section 232 adds hairstyling establishments to the list of businesses that may be licensed by a municipality.

SECTIONS 15 to 21. The amendments set out in sections 15 to 21 of the Bill all relate to county bridges and county roads. The principal purpose of the amendments is to delete the authority of county councils to erect bridges on highways that are not part of the county road system and to provide a mechanism whereby county councils, with the consent of the local municipality or municipalities, may transfer their jurisdiction over existing bridges that are not on the county road system back to the local municipality or municipalities that have jurisdiction over the highways on which the bridges are situate.

The repeal of section 274 deletes the requirement that a county must upgrade a township road immediately after the county assumes jurisdiction over the road.

SECTION 22. The proposed repeal of subsection 298 (3) deletes the requirement for the approval of the Minister with respect to by-laws for altering or diverting shoreline roads and roads leading to water. A new procedure for the passing of by-laws to stop up, sell or lease shoreline road allowances and road allowances leading to water is set out in the proposed section 303a of the Act (see section 23 of the Bill).

The proposed repeal of subsection 298 (6) deletes the requirement for a judge's approval of by-laws closing highways in townships in unorganized territory and in townships that are separated from the counties in which they are situate. The re-enactment of subsection 298 (7) is complementary to the repeal of subsection 298 (6).

Under subsection 298 (12) by-laws related to roads must be registered in the land registry office if the roads are lands to which the *Registry Act* applies. The proposed re-enactment of this subsection will require the registration of such by-laws related to roads in areas to which the *Land Titles Act* applies. The proposed subsections 298 (13) and (14) provide that the registration requirement does not apply to such by-laws in the land registry system if they were passed before the enactment of the forerunner of the present subsection 298 (12) or to such by-laws in the land titles system if they were passed before the coming into force of the new subsection 298 (12).

SECTION 23. The proposed section 303a establishes a procedure for the passing of by-laws for the stopping up or selling or leasing of unopened shoreline road allowances and unopened road allowances that lead to water. A council that proposes to consider such a by-law will be required to give public notice of the proposed by-law and will be required to hear objectors before making a decision. The Minister and the upper tier municipality in which the road allowance is situate will be able to veto such a by-law and the Minister will be authorized to direct that such a by-law will not take effect until it is approved by the Municipal Board.

SECTION 24. The repeal of subsection 306 (2) will enable municipalities to lay out highways that are less than twenty metres in width without obtaining the approval of the Minister. The repeal of subsection 306 (4) is complementary to the repeal of subsection 306 (2).

SECTION 25. The proposed amendment to section 325 deletes an unnecessary reference to dispensing with the assent of the electors (see the Explanatory Note to section 13 of the Bill).

SECTION 26. Under section 386, a municipality by by-law may provide for the payment of taxes in bulk or by instalment and may allow discounts for early payment of taxes or impose an additional percentage charge for the late payment of taxes. The proposed amendments to subsection 386 (6) extend the time during which a taxpayer may take advantage of these provisions from fourteen to twenty-one days after notice thereof is sent to the taxpayer. In addition, the council of a municipality will be authorized to extend the twenty-one day period.

SECTION 27. Subsections 387 (1) and (2) provide for the collection of overdue taxes by distress. Under the proposed amendments, the tax collector or treasurer will be required to wait at least twenty-one days, instead of the present fourteen days, before distraining.

Bill 60**1984****An Act to amend the Municipal Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 22 of section 1 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

22. “regular election” means an election required to be held under section 10 of the *Municipal Elections Act*.

R.S.O. 1980,
c. 308

2. Section 59 of the said Act is repealed.

3. Subsection 72 (2) of the said Act is repealed and the following substituted therefor:

(2) When the head of council is absent or refuses to act, or the office is vacant, the council may by resolution appoint one of its members to act in the place and stead of the head of council and while so acting, the member has and may exercise all the rights, powers and authority of the head of council.

Acting head

4. Subsection 77 (4) of the said Act is repealed.

5. Subsections 78 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) The clerk shall keep an index book in which the clerk shall enter the number and date of,

Index of
zoning by-
laws,
etc.

(a) every subsisting by-law heretofore passed under section 34 of the *Planning Act, 1983* or a predecessor of that section;

1983, c. 1

(b) every by-law hereafter passed under section 34 of the *Planning Act, 1983*; and

- (c) every other subsisting by-law, and every other by-law hereafter passed, that affects land but does not directly affect the title to land.

6. The said Act is amended by adding thereto the following sections:

Transfer of
documents to
Archivist

78a.—(1) Notwithstanding subsection 77 (1), but subject to section 116, the Archivist of Ontario and a municipal council may agree that any document of the municipality may be transferred to and kept by the Archivist.

Idem
R.S.O. 1980,
c. 303

(2) Subject to section 116, the Archivist of Ontario and a local board, as defined in the *Municipal Affairs Act*, may agree that any document of the local board may be transferred to and kept by the Archivist.

Copies of
certain
by-laws to
be kept

(3) Where a council or local board agrees under subsection (1) or (2) to transfer the original of a by-law that, at the time of the transfer, is still in force or the operation of which is not spent, the clerk shall obtain and keep, until such time as the by-law is no longer in force or is spent, a photographic copy of the by-law.

Interpretation

(4) In this section and section 78b, “document” includes originals of by-laws, resolutions, books, records, accounts and papers of any nature.

Certified
copies of
documents
receivable
in evidence

78b.—(1) A copy of any document in the possession or under the control of the clerk of a municipality purporting to be certified by the clerk and under the seal of the corporation may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

Idem

(2) A copy of any document kept by the Archivist under subsection 78a (1) or (2) and certified by the Archivist may be filed and used in any court or tribunal in lieu of the original and shall be received in evidence without proof of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court or tribunal otherwise directs.

7. Subsection 98 (5) of the said Act is repealed and the following substituted therefor:

(5) Notwithstanding any other Act, in any proceeding to which a municipality or local board, as defined in the *Municipal Affairs Act*, is a party, costs adjudged to the municipality or local board shall not be disallowed or reduced merely because the solicitor or the counsel who earned the costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality or local board or of a municipality acting on behalf of the local board performing the services in the discharge of his duty and remunerated therefor by his salary, and for that or any other reason was not entitled to recover any costs from the municipality or local board in respect of the services rendered, and,

Costs in legal proceedings
R.S.O. 1980,
c. 303

- (a) the costs recovered by or on behalf of the municipality shall form part of the general funds of the municipality; and
- (b) the costs recovered by or on behalf of the local board shall form part of the general funds of the local board.

8. Section 122 of the said Act is amended by adding thereto the following subsection:

(2a) A municipality may enter into and perform agreements with any other municipality located in Canada or the United States of America on such terms and conditions as may be set out in the agreement for the use of,

Agreements
with other
municipal
jurisdictions

- (a) any of the real and personal property; and
- (b) the services of any of the officers and servants,

of the municipality or the other municipality.

9. Paragraph 58 of section 208 of the said Act is repealed and the following substituted therefor:

58. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty.

Regional
economic
development
agreements

10. Section 209 of the said Act is repealed.

11.—(1) Paragraph 96 of section 210 of the said Act is amended by adding thereto the following clause:

R.S.O. 1980,
c. 31

- (c) No fees are payable under clause (b) in respect of a child residing in a trailer if the trailer is liable for assessment and taxation under the *Assessment Act*.

(2) Clause (d) of paragraph 125 of the said section 210, as amended by the Statutes of Ontario, 1982, chapter 24, section 10, is repealed and the following substituted therefor:

- (d) Notwithstanding subsection 321a (1) and subject to clause (f), the driver or owner of a motor vehicle parked or left on private property is not liable to any penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the written complaint of the owner or occupant of the property given to a constable or officer appointed for the carrying out of the provisions of the by-law.

12. Clause 211 (1) (b) of the said Act is amended by inserting after “shops” in the third line “hairstyling establishments, hairdressing establishments”.

13. Clause (a) of paragraph 3 of section 225 of the said Act is repealed.

14. Paragraph 2 of section 232 of the said Act is repealed and the following substituted therefor:

Barber
shops,
etc.

2. For licensing, regulating and governing the owners of barber shops, hairstyling establishments and hairdressing establishments, and for revoking any such licence.

15. Section 261 of the said Act is repealed and the following substituted therefor:

Jurisdiction
of county
council over
highways

261.—(1) The council of a county has jurisdiction over every highway and boundary line assumed by the council and every bridge thereon.

Duty with
respect to
bridges

(2) Where the council of a county has jurisdiction over a highway, the council of the county, at the expense of the county, shall cause to be erected and maintained or rebuilt or replaced and maintained the bridges on the highway.

Continued
jurisdiction
over certain
bridges

(3) Subject to a by-law passed under subsection 278 (1), the council of a county continues on and after the day this section comes into force,

- (a) to have jurisdiction over all bridges over which it had jurisdiction immediately before this section comes into force;
- (b) to have joint jurisdiction over all bridges over which it had joint jurisdiction immediately before this section comes into force,

and the council of the county, at the expense of the county or at the joint expense of the municipalities, as the case may be, shall cause every such bridge to be rebuilt or replaced and maintained.

16. Section 262 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

17. Section 263 of the said Act is amended by inserting after “is” in the first line “to maintain or”.

18. Section 266 of the said Act is repealed.

19.—(1) Subsection 270 (1) of the said Act is repealed and the following substituted therefor:

(1) The council of a county may by by-law assume as a county road any highway within a town, not being a separated town, or within a village or township.

Assumption
of county
councils of
highways

(2) Subsection 270 (7) of the said Act is repealed and the following substituted therefor:

(7) When a by-law passed under this section is repealed, the highway and the bridges thereon cease to be under the jurisdiction of the council of the county and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it.

Effect of
repeal

20. Sections 273, 274 and 275 of the said Act are repealed.

21. Sections 276, 277 and 278 of the said Act are repealed and the following substituted therefor:

276.—(1) Where a bridge joins or is to join a highway under the jurisdiction of one municipal corporation to a highway under the jurisdiction of another municipal corporation, it is the duty of the municipal corporations whose highways are joined or to be joined to maintain or erect and maintain the bridge.

Bridges on
highways
under
different
jurisdictions

Bridges on
boundary
lines

(2) Where a bridge forms part of a boundary line, it is the duty of the municipal corporations that are responsible for maintaining the boundary line to maintain or to erect and maintain all necessary bridges on the boundary line.

Maintenance
of boundary
lines

277.—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities.

Exceptions

(2) Subsection (1) does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be maintained or erected and maintained by another corporation.

Local
municipalities
to erect and
maintain
certain
bridges

278.—(1) Where a bridge that is not on a county road or that is not on a boundary line assumed by the county is under the exclusive or joint jurisdiction of the council of a county, the council of the county may transfer by by-law its jurisdiction and control over the bridge to the council or councils of the local municipality or local municipalities in the county that has or have jurisdiction over the highway or boundary line on which the bridge is situate and the transfer may be made on such terms and conditions as the councils may agree upon.

Approval

(2) A by-law passed under subsection (1) does not take effect until it is approved by a by-law of the local municipality or the local municipalities to which the jurisdiction and control over the bridge is being transferred.

Effect of
transfer

(3) On the day that a transfer under subsection (1) takes effect, all rights, liabilities and obligations of the county in respect of the bridge are transferred to and are vested in and imposed upon the local municipality or, where the jurisdiction is transferred to the council of more than one local municipality, the local municipalities, jointly.

22.—(1) Subsections 298 (3) and (6) of the said Act are repealed.

(2) Subsection 298 (7) of the said Act is repealed and the following substituted therefor:

Notice to
clerk of
county

(7) Where the council of a township intends to pass a by-law under clause (1) (c), it shall so notify, in writing, the clerk of the county in which the township is situate by registered mail or by personal service.

(3) Subsection 298 (12) of the said Act is repealed and the following substituted therefor:

(12) A by-law passed under subsection (1), or any predecessor of subsection (1), for closing any street, road or highway or for opening upon any private property, any street, road or highway does not take effect until it has been registered in the land registry office of the land titles division or registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality.

Registration
of by-laws

(13) Subsection (12) does not apply, and shall be deemed never to have applied, so as to require the registration of a by-law passed before the 29th day of March, 1873.

Exception

(14) Subsection (12) does not apply so as to require the registration of a by-law passed before the day this subsection comes into force in respect of land registered under the *Land Titles Act*.

Idem

R.S.O. 1980,
c. 230

23. The said Act is further amended by adding thereto the following section:

303a.—(1) This section applies only to by-laws for stopping up or selling or leasing the soil and freehold in respect of an unopened allowance for road reserved in the original survey where the allowance for road,

Shoreline
road
allowances
and
allowances
for roads
leading to
water

- (a) runs along the bank of any river, stream or other water;
- (b) runs along or is on the shore of any lake or other water;
- (c) leads to the bank of any river or stream; or
- (d) leads to the shore of any lake or other water,

and subsections 298 (7), (8) and (9) and sections 299 and 301 do not apply to any such by-law.

(2) At least sixty-five days before the meeting of the council at which a by-law to which this section applies is to be taken into consideration, written notice of the proposed by-law shall be given,

Notice of
by-law,
hearing

- (a) by personal service or by first class mail to all assessed owners of land lying within 120 metres of the allowance; and

- (b) by personal service or by registered mail to the Minister and to the clerk of the county or regional, metropolitan or district municipality in which the allowance is situate,

and notice of the proposed by-law shall be published at least once not less than sixty-five days before such meeting.

Right of
ingress and
egress not to
be taken
away by
closing
allowance

(3) A by-law to which this section applies shall not be passed if the effect of the by-law will be to deprive any person of the means of ingress and egress to and from the person's land or place of residence unless the person consents to its passing.

Effect of
objections

(4) If the Minister or the council of the county or of the regional, metropolitan or district municipality in which the allowance is situate objects to the passing of the proposed by-law, the Minister or the council, as the case may be, shall notify the clerk of the municipality which proposes to pass the by-law, in writing and delivered by personal service or by registered mail within sixty days of the receipt of the notice sent under subsection (2), and where a notice of objection is received in accordance with this subsection, the by-law shall not be passed.

Reference to
Municipal
Board

(5) At any time after the notice is received by the Minister under subsection (2) and before the passage of the proposed by-law, the Minister may direct that the by-law not take effect until it is approved by the Municipal Board and, where within forty-five days of the first publication of the notice under subsection (2), the Minister receives a written objection, which objection shall set out the reasons therefor, from any person or other body to the proposed by-law, the Minister shall direct that the by-law shall not take effect until it is approved by the Municipal Board, unless, in the Minister's opinion, the objection is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay.

Objections
not affected

(6) Nothing in subsection (5) affects an objection or the power to make an objection under subsection (4).

Direction

(7) A direction under subsection (5) shall be in writing and shall be delivered by personal service or by registered mail to the clerk of the municipality that proposes to pass the by-law and shall be accompanied by copies of the objections, if any, and a copy of the direction and the objections, if any, shall be sent to the Municipal Board by the Minister.

Notice of
hearing

(8) At least five days before the council considers a by-law to which this section applies, the clerk of the municipality,

shall give notice of the hearing to every person whose objection was received under subsection (7), and to all other persons who have applied to be heard and before passing the by-law, the council shall give every such person an opportunity to be heard and, except where a direction has been received under subsection (7), the decision of the council is final.

(9) Where a direction has been received under subsection (7), the by-law if passed by the council does not take effect until it is approved by the Municipal Board, and where the council does not pass the by-law, the decision of the council is final.

Effect of
direction

(10) The clerk shall give the notices under subsection (2) upon payment by the applicant, if any, for the by-law, of the reasonable expenses to be incurred in so doing.

Cost of
notices

24. Subsections 306 (2) and (4) of the said Act are repealed.

25. Section 325 of the said Act is amended by striking out “without obtaining the assent of the electors” in the eleventh and twelfth lines.

26. Subsection 386 (6) of the said Act is amended by striking out “fourteen days” in the seventh and eighth lines and inserting in lieu thereof “twenty-one days or such longer period as the council may authorize”.

27.—(1) Subsection 387 (1) of the said Act is amended by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one” and by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

(2) Subsection 387 (2) of the said Act is amended by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one” and by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

28. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

29. The short title of this Act is the *Municipal Amendment Act, 1984*.

Short title

Bill 61

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

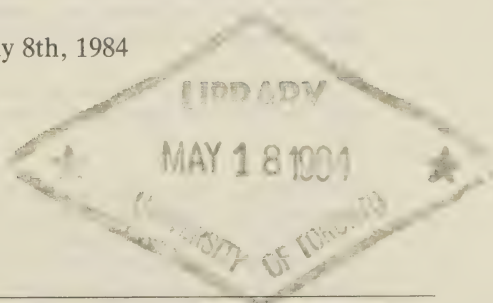
1st Reading

May 8th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

SECTIONS 1, 2, 3, 7, 9, 10 and 11. References in the Act to the boroughs of Etobicoke, Scarborough and York are changed to read as references to the cities of Etobicoke, Scarborough and York.

SECTION 4. The proposed amendments to section 17 of the Act delete obsolete references to sections 63 and 64 of the *Municipal Act* which were repealed by the *Municipal Conflict of Interest Act, 1983*.

SECTION 5. Section 19 of the Act requires the Metropolitan clerk to supply copies of municipal documents. Under the Act, as it now reads, the clerk must charge a rate of 15 cents for each 100 words or such lower rate as the Metropolitan Council may fix. The amendment will give the municipality the same flexibility as other municipalities have with respect to charging fees for photocopying.

SECTION 6. The subsection proposed to be added deems the Pension Plan and the Benefit Fund mentioned to be, for the purpose of acquiring, holding and disposing of land, bodies corporate. The purpose is to facilitate the dealing with land and does not otherwise affect the powers of the trustees of the Plan and of the Fund in the carrying out of the objects thereof.

SECTION 8. Section 62 of the Act empowers the Metropolitan Corporation to contribute toward the cost to an area municipality of separating combined sewers, not to exceed 25 per cent of the total cost. The amendment removes that limitation.

SECTION 12. Because of recent amendments to the *Municipal Elections Act*, the reference in subsection 152 (5) to biennial elections is now obsolete. It is proposed that this reference be changed to read as a reference to regular elections.

SECTION 13. New section 163a vests in the Metropolitan Corporation the undisbursed interest accumulated prior to January 1, 1982 on the trust accounts of residents of Metropolitan Toronto Homes for the Aged, to be distributed in the manner set out. This undisbursed interest fund arises from the fact that, during the period 1955 (when trust funds were first deposited in interest-bearing accounts) to 1973 the interest was not credited to the individual trust accounts but the use thereof for the general welfare and entertainment of the residents was authorized by the Metropolitan Council. In the period 1973 to 1981 the estimated interest, and since then, the actual interest has been credited to the individual trust accounts. The result has been the accumulation of a very substantial sum of interest moneys, the distribution of which to the appropriate trust accounts is in many cases impossible and in others administratively impracticable.

New section 186a makes it explicit that subsection 24 (5) of the *Building Code Act* (providing that fines levied under that Act are payable to the treasurer of the municipality within which the offence was committed) prevails over section 186 of the Metro Act which provides that fines otherwise belonging to an area municipality belong to Metro.

SECTION 14. The re-enactment of section 216 of the Act defines "total rateable property" to reflect the differential between the residential mill rate and the commercial mill rate.

SECTION 15. Until 1982, the Metropolitan Council was required to provide for reserves in its estimates "within such limits as to type and amount as the Ministry may approve". In 1982, the Act was amended and the provisions related to reserves was deleted. The re-enactment of subsection 218 (2) restores the requirement to provide for reserves but Ministry approval will not be required. This provision will be deemed to have come into force on the 1st day of January, 1975. This will have the effect of validating reserves that were provided for in the estimates after that date without Ministry approval.

SECTION 16. The amendments to section 219 of the Act are consequential on the incorporation of a definition of “total rateable property” in section 216 of the Act as set out in section 14 of the Bill.

SECTION 17.—Subsection 1. Sections 78a, 78b, 104a and 121 are added as sections of the *Municipal Act* that apply to the Metropolitan Corporation. The application of sections 78a and 78b will give to the Metropolitan Corporation and its local boards the same power to transfer documents to the Provincial Archivist as will be given to local municipalities and their local boards under amendments proposed to the *Municipal Act* by the enactment of those two sections. Under section 104a a municipality may enact enforceable bilingual by-laws and may conduct its proceedings in English or French or English and French. Section 121 permits a municipal council to pass by-laws for entering into and performing agreements with other municipalities with respect to joint works and undertakings.

Subsection 2. Obsolete references to the alteration of the boundaries of area municipalities are deleted.

Subsection 3. The re-enactment of subsection 245 (8) of the Act changes a reference to the *Mortmain and Charitable Uses Act* (now repealed) to a reference to section 6c of the *Charities Accounting Act*. That section authorizes a municipal corporation to hold lands for charitable purposes.

SECTION 18. References to the townships of Etobicoke and Scarborough are changed to read as references to the cities of Etobicoke and Scarborough.

SECTION 19. The re-enactment of section 264 of the Act deletes unnecessary references to the boroughs of Etobicoke, Scarborough and York. The effect of this section is to deem East York to be a city for the purposes of establishing speed limits under the *Highway Traffic Act*.

Bill 61

1984

An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (a) and (h) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (a) “area municipality” means the municipality or corporation of the Borough of East York, the City of Etobicoke, the City of North York, the City of Scarborough, the City of Toronto or the City of York;

.

- (h) “Metropolitan Area” means the area from time to time included within the Borough of East York, the City of Etobicoke, the City of North York, the City of Scarborough, the City of Toronto and the City of York.

2. Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

(1) The area municipalities are entitled to the following membership on the Metropolitan Council:

Metropolitan
Council
membership

the Borough of East York	—	2 members
the City of Etobicoke	—	5 members
the City of North York	—	10 members
the City of Scarborough	—	7 members

the City of Toronto — 12 members

the City of York — 3 members

3.—(1) Clause 11 (1) (c) of the said Act is amended by striking out “Borough” in the first line and inserting in lieu thereof “City”.

(2) Clause 11 (1) (e) of the said Act is amended by striking out “Borough” in the first line and inserting in lieu thereof “City”.

4.—(1) Subsection 17 (1) of the said Act is amended by striking out “63” in the first line.

(2) Subsection 17 (2) of the said Act is amended by striking out “64” in the first line.

5. Subsection 19 (1) of the said Act is amended by striking out “at the rate of 15 cents for every 100 words or at such lower rate as the Metropolitan Council may fix” in the ninth, tenth and eleventh lines and inserting in lieu thereof “at such rate as the Metropolitan Council may by by-law establish”.

6. Section 24 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 14, section 2, is further amended by adding thereto the following subsection:

Funds
deemed
bodies
corporate

(2a) The Metropolitan Toronto Pension Plan and the Metropolitan Toronto Police Benefit Fund established by the Metropolitan Council pursuant to the provisions of this Act, shall, for the purposes only of acquiring, holding and disposing of land in their respective names to carry out the objects of the Plan and Fund, be deemed to be bodies corporate.

7.—(1) Subsection 27 (1) of the said Act is amended by striking out “Borough” in the second line and inserting in lieu thereof “City”.

(2) The said subsection 27 (1) is further amended by striking out “or Borough” in the third line.

8. Section 62 of the said Act is amended by striking out “not exceeding 25 per cent of the total cost thereof to the area municipality” in the fourth and fifth lines.

9. Paragraphs 2, 4 and 6 of clause 116 (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 1, are repealed and the following substituted therefor:

2. The Board of Education for the City of Etobicoke.

.

4. The Board of Education for the City of Scarborough.

.

6. The Board of Education for the City of York.

10.—(1) Clauses 118 (1) (b), (d) and (f) of the said Act are repealed and the following substituted therefor:

(b) The Board of Education for the City of Etobicoke;

.

(d) The Board of Education for the City of Scarborough;

.

(f) The Board of Education for the City of York.

(2) Clause 118 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) for the cities of Toronto and Etobicoke and for the Borough of East York shall be two in each ward of the City or Borough, as the case may be.

11.—(1) Clauses 121 (2) (a) and (c) of the said Act are repealed and the following substituted therefor:

(a) one member of and appointed by The Board of Education for the City of Etobicoke;

.

(c) three members of and appointed by The Board of Education for the City of Scarborough.

(2) Subsection 121 (3) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 3, is further amended by striking out "Borough" in the second line and in

the third line and inserting in lieu thereof in each instance "City".

12. Subsection 152 (5) of the said Act is amended by striking out "biennial" in the second line and inserting in lieu thereof "regular".

13. The said Act is amended by adding thereto the following sections:

Vesting of
certain trust
fund in
Metropolitan
Corporation

163a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of January, 1982, on the trust accounts of residents of Metropolitan Toronto Homes for the Aged, is vested in the Metropolitan Corporation for distribution of both the fund and interest accruing thereon by the Metropolitan Council in its absolute discretion for the general benefit of the residents of Metropolitan Toronto Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

.

Disposition
of fines
under
R.S.O. 1980,
c. 51

186a. Notwithstanding sections 186 and 260 of this Act, subsection 24 (5) of the *Building Code Act* prevails.

14. Section 216 of the said Act is repealed and the following substituted therefor:

Interpretation

216. In this Part,

R.S.O. 1980,
c. 359

- (a) "commercial assessment" has the same meaning as in clause 1 (1) (b) of the *Ontario Unconditional Grants Act*;
- (b) "residential and farm assessment" has the same meaning as in clause 7 (1) (e) of the *Ontario Unconditional Grants Act*;
- (c) "total rateable property",
 - (i) in relation to an area municipality, means the sum of,
 - (A) the product obtained by multiplying the residential and farm assessment by .85,
 - (B) the commercial assessment, and
 - (C) the valuations of all properties for which payments in lieu of taxes are paid by the

Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or by Ontario Hydro to any area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

15. Subsection 218 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 11, is repealed and the following substituted therefor:

(2) In preparing the estimates, the Metropolitan Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves as the Metropolitan Council considers necessary.

Allowance
to be made
in estimates

16.—(1) Subsection 219 (5) of the said Act is repealed and the following substituted therefor:

(5) All other amounts levied under subsection (1) shall be apportioned among the area municipalities in the proportion that the total rateable property in each area municipality bears to the total rateable property in the Metropolitan Area.

Other
purposes

(2) Subsection 219 (9) of the said Act is repealed.

17.—(1) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 13, is repealed and the following substituted therefor:

(1) Section 5, Parts XIII, XIV, XV and XIX, sections 78a, 78b, 104a, 105, 106, 113, 114, 115, 116, 121 and 122, subsection 165 (3), paragraphs 3, 11, 12, 23, 24, 27, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

Application
of
R.S.O. 1980,
c. 302

(2) Subsection 245 (2) of the said Act is repealed and the following substituted therefor:

(2) Sections 10 and 11 of the *Municipal Act* do not apply to any area municipality.

Exceptions

(3) Subsection 245 (8) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(8) The Metropolitan Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

18. Subsection 261 (1) of the said Act is amended by striking out "Township" in the third line, in the fourth line, in the eighth line and in the tenth line and inserting in lieu thereof in each instance "City".

19. Section 264 of the said Act is repealed and the following substituted therefor:

Borough
deemed to
be
city under
R.S.O. 1980,
c. 198,
s. 109

264. For the purpose of section 109 of the *Highway Traffic Act*, the Borough of East York shall be deemed to be a city.

Commence-
ment

20.—(1) This Act, except sections 14, 15 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Section 15 shall be deemed to have come into force on the 1st day of January, 1975.

Idem

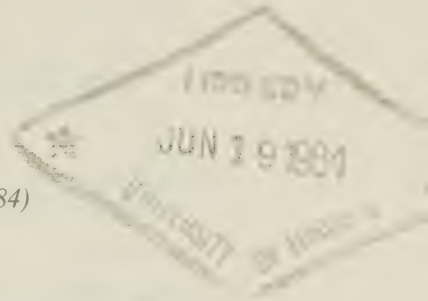
(3) Sections 14 and 16 shall be deemed to have come into force on the 1st day of January, 1984.

Short title

21. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1984*.

Bill 61

(Chapter 18
Statutes of Ontario, 1984)



An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	May 8th, 1984
<i>2nd Reading</i>	May 29th, 1984
<i>3rd Reading</i>	May 29th, 1984
<i>Royal Assent</i>	May 29th, 1984

Bill 61

1984

An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (a) and (h) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (a) “area municipality” means the municipality or corporation of the Borough of East York, the City of Etobicoke, the City of North York, the City of Scarborough, the City of Toronto or the City of York;

.

- (h) “Metropolitan Area” means the area from time to time included within the Borough of East York, the City of Etobicoke, the City of North York, the City of Scarborough, the City of Toronto and the City of York.

2. Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

(1) The area municipalities are entitled to the following membership on the Metropolitan Council:

Metropolitan
Council
membership

the Borough of East York	—	2 members
the City of Etobicoke	—	5 members
the City of North York	—	10 members
the City of Scarborough	—	7 members

the City of Toronto — 12 members

the City of York — 3 members

3.—(1) Clause 11 (1) (c) of the said Act is amended by striking out “Borough” in the first line and inserting in lieu thereof “City”.

(2) Clause 11 (1) (e) of the said Act is amended by striking out “Borough” in the first line and inserting in lieu thereof “City”.

4.—(1) Subsection 17 (1) of the said Act is amended by striking out “63” in the first line.

(2) Subsection 17 (2) of the said Act is amended by striking out “64” in the first line.

5. Subsection 19 (1) of the said Act is amended by striking out “at the rate of 15 cents for every 100 words or at such lower rate as the Metropolitan Council may fix” in the ninth, tenth and eleventh lines and inserting in lieu thereof “at such rate as the Metropolitan Council may by by-law establish”.

6. Section 24 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 14, section 2, is further amended by adding thereto the following subsection:

Funds
deemed
bodies
corporate

(2a) The Metropolitan Toronto Pension Plan and the Metropolitan Toronto Police Benefit Fund established by the Metropolitan Council pursuant to the provisions of this Act, shall, for the purposes only of acquiring, holding and disposing of land in their respective names to carry out the objects of the Plan and Fund, be deemed to be bodies corporate.

7.—(1) Subsection 27 (1) of the said Act is amended by striking out “Borough” in the second line and inserting in lieu thereof “City”.

(2) The said subsection 27 (1) is further amended by striking out “or Borough” in the third line.

8. Section 62 of the said Act is amended by striking out “not exceeding 25 per cent of the total cost thereof to the area municipality” in the fourth and fifth lines.

9. Paragraphs 2, 4 and 6 of clause 116 (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 1, are repealed and the following substituted therefor:

2. The Board of Education for the City of Etobicoke.

.

4. The Board of Education for the City of Scarborough.

.

6. The Board of Education for the City of York.

10.—(1) Clauses 118 (1) (b), (d) and (f) of the said Act are repealed and the following substituted therefor:

(b) The Board of Education for the City of Etobicoke;

.

(d) The Board of Education for the City of Scarborough;

.

(f) The Board of Education for the City of York.

(2) Clause 118 (2) (a) of the said Act is repealed and the following substituted therefor:

(a) for the cities of Toronto and Etobicoke and for the Borough of East York shall be two in each ward of the City or Borough, as the case may be.

11.—(1) Clauses 121 (2) (a) and (c) of the said Act are repealed and the following substituted therefor:

(a) one member of and appointed by The Board of Education for the City of Etobicoke;

.

(c) three members of and appointed by The Board of Education for the City of Scarborough.

(2) Subsection 121 (3) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 3, is further amended by striking out "Borough" in the second line and in

the third line and inserting in lieu thereof in each instance "City".

12. Subsection 152 (5) of the said Act is amended by striking out "biennial" in the second line and inserting in lieu thereof "regular".

13. The said Act is amended by adding thereto the following sections:

Vesting of
certain trust
fund in
Metropolitan
Corporation

163a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of January, 1982, on the trust accounts of residents of Metropolitan Toronto Homes for the Aged, is vested in the Metropolitan Corporation for distribution of both the fund and interest accruing thereon by the Metropolitan Council in its absolute discretion for the general benefit of the residents of Metropolitan Toronto Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

.

Disposition
of fines
under
R.S.O. 1980,
c. 51

186a. Notwithstanding sections 186 and 260 of this Act, subsection 24 (5) of the *Building Code Act* prevails.

14. Section 216 of the said Act is repealed and the following substituted therefor:

Interpretation

216. In this Part,

R.S.O. 1980,
c. 359

- (a) "commercial assessment" has the same meaning as in clause 1 (1) (b) of the *Ontario Unconditional Grants Act*;
- (b) "residential and farm assessment" has the same meaning as in clause 7 (1) (e) of the *Ontario Unconditional Grants Act*;
- (c) "total rateable property",
 - (i) in relation to an area municipality, means the sum of,
 - (A) the product obtained by multiplying the residential and farm assessment by .85,
 - (B) the commercial assessment, and
 - (C) the valuations of all properties for which payments in lieu of taxes are paid by the

Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or by Ontario Hydro to any area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

15. Subsection 218 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 11, is repealed and the following substituted therefor:

(2) In preparing the estimates, the Metropolitan Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves as the Metropolitan Council considers necessary.

Allowance
to be made
in estimates

16.—(1) Subsection 219 (5) of the said Act is repealed and the following substituted therefor:

(5) All other amounts levied under subsection (1) shall be apportioned among the area municipalities in the proportion that the total rateable property in each area municipality bears to the total rateable property in the Metropolitan Area.

Other
purposes

(2) Subsection 219 (9) of the said Act is repealed.

17.—(1) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 13, is repealed and the following substituted therefor:

(1) Section 5, Parts XIII, XIV, XV and XIX, sections 78a, 78b, 104a, 105, 106, 113, 114, 115, 116, 121 and 122, subsection 165 (3), paragraphs 3, 11, 12, 23, 24, 27, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

Application
of
R.S.O. 1980,
c. 302

(2) Subsection 245 (2) of the said Act is repealed and the following substituted therefor:

(2) Sections 10 and 11 of the *Municipal Act* do not apply to any area municipality.

Exceptions

(3) Subsection 245 (8) of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 65

(8) The Metropolitan Corporation shall be deemed to be a municipal corporation for the purposes of section 6c of the *Charities Accounting Act*.

18. Subsection 261 (1) of the said Act is amended by striking out "Township" in the third line, in the fourth line, in the eighth line and in the tenth line and inserting in lieu thereof in each instance "City".

19. Section 264 of the said Act is repealed and the following substituted therefor:

Borough
deemed to
be
city under
R.S.O. 1980,
c. 198,
s. 109

264. For the purpose of section 109 of the *Highway Traffic Act*, the Borough of East York shall be deemed to be a city.

Commence-
ment

20.—(1) This Act, except sections 14, 15 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Section 15 shall be deemed to have come into force on the 1st day of January, 1975.

Idem

(3) Sections 14 and 16 shall be deemed to have come into force on the 1st day of January, 1984.

Short title

21. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1984*.

Bill 62

An Act to amend the Employment Standards Act

The Hon. R. H. Ramsay
Minister of Labour



1st Reading May 10th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Section 40a of the *Employment Standards Act* provides for the payment of severance pay where fifty or more employees have their employment terminated in a period of six months or less because of the permanent discontinuance of all or part of the employer's business.

The proposed amendments to section 40a will enable an employee to elect to be paid severance pay immediately upon the termination of employment and forfeit any right of recall or to elect to maintain the right of recall. Where the employee elects to retain the right of recall, the severance pay will be paid in trust to the Director and paid out to the employer or employee in accordance with the proposed subsection (9).

SECTION 2. The proposed subsection 51a (1) provides for the deposit of wages paid in trust to the Director pending a review under section 50 to be paid into an interest bearing account. The wages and the interest thereon will be paid out in accordance with the referee's order.

Under subsection 51a (2), a referee, in a hearing under section 51, will be able to direct the payment of interest on an award made in favour of an employee.

Bill 62

1984

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 40a (3) (c) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed.

(2) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by adding thereto the following subsections:

(7) Where an employee who is entitled to severance pay under this section has a right to be recalled for employment under the terms and conditions of employment, the employee may elect to be paid the severance pay forthwith or may elect to maintain the right to be recalled.

Election by
employee

(8) Where the employee elects under subsection (7) to be paid the severance pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Effect of
election
to accept
severance
pay

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director,

Effect of
election to
maintain
right of
recall

- (a) to the employer, where the employee accepts employment made available under the right of recall and such acceptance takes place in the period provided under the terms and conditions for recall or within a period of twelve months from the termination whichever period is shorter and in such case the employee shall be deemed to have abandoned the right to severance pay; or
- (b) to the employee in any case other than that mentioned in clause (a), including the case where the

employee chooses to be paid severance pay and abandon the right to be recalled.

2. The said Act is amended by adding thereto the following section:

Interest on
trust funds

51a.—(1) Upon an application for review under section 50, the wages paid to the Director in trust shall be paid into an interest bearing account to abide the decision of a referee and shall be paid out in accordance with the decision of the referee together with any interest earned thereon.

Interest on
award of a
referee

(2) In a hearing under section 51, a referee may, where it appears just and equitable to do so, direct that interest calculated in the same manner as prejudgment interest in the Supreme Court be paid by an employer upon any wages to which an employee is entitled.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Employment Standards Amendment Act, 1984*.

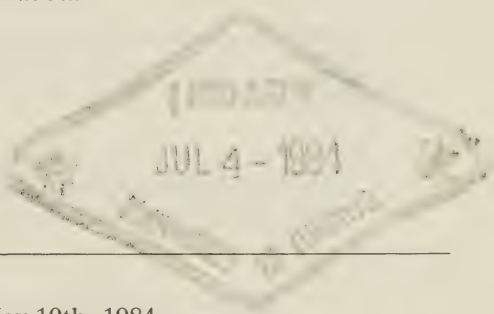
4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 62

An Act to amend the Employment Standards Act

The Hon. R. H. Ramsay
Minister of Labour



1st Reading May 10th, 1984
2nd Reading June 13th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Section 40a of the *Employment Standards Act* provides for the payment of severance pay where fifty or more employees have their employment terminated in a period of six months or less because of the permanent discontinuance of all or part of the employer's business.

The proposed amendments to section 40a will enable an employee to elect to be paid severance pay immediately upon the termination of employment and forfeit any right of recall or to elect to maintain the right of recall. Where the employee elects to retain the right of recall or fails to make an election, the severance pay will be paid in trust to the Director and paid out to the employer or employee in accordance with the proposed subsection (9).

SECTION 2. The proposed subsection 51a (1) provides for the deposit of wages paid in trust to the Director pending a review under section 50 to be paid into an interest bearing account. The wages and the interest thereon will be paid out in accordance with the referee's order.

Under subsection 51a (2), a referee, in a hearing under section 51, will be able to direct the payment of interest on an award made in favour of an employee.

Bill 62

1984

An Act to amend the Employment Standards Act

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(2) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by adding thereto the following subsections:

(7) Where an employee who is entitled to severance pay under this section has a right to be recalled for employment under the terms and conditions of employment, the employee may elect to be paid the severance pay forthwith or may elect to maintain the right to be recalled.

Election by
employee

(8) Where the employee elects under subsection (7) to be paid the severance pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Effect of
election
to accept
severance
pay

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director,


Effect of
election to
maintain
right of
recall

- (a) to the employer, where the employee accepts employment made available under the right of recall and such acceptance takes place in the period provided under the terms and conditions for recall or within a period of twelve months from the termination whichever period is shorter and in such case the employee shall be deemed to have abandoned the right to severance pay;



- (b) to the employer, where during the period of twelve months from the termination the employee advises

the Director in writing that the employee elects to retain the right to be recalled and in such case the employee shall be deemed to have abandoned the right to severance pay; or

- (c) to the employee in any case other than a case mentioned in clause (a) or (b) and, upon payment, the employee shall be deemed to have abandoned the right to be recalled. 

2. The said Act is amended by adding thereto the following section:

Interest on
trust funds

51a.—(1) Upon an application for review under section 50, the wages paid to the Director in trust shall be paid into an interest bearing account to abide the decision of a referee and shall be paid out in accordance with the decision of the referee together with any interest earned thereon.

Interest on
award of a
referee

(2) In a hearing under section 51, a referee may, where it appears just and equitable to do so, direct that interest calculated in the same manner as prejudgment interest in the Supreme Court be paid by an employer upon any wages to which an employee is entitled.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

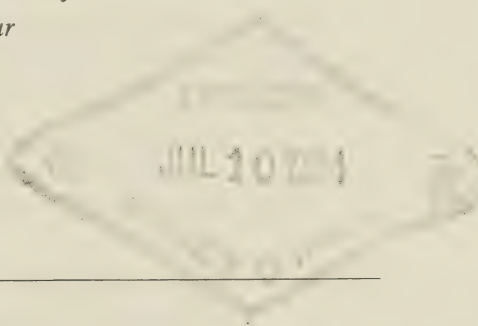
4. The short title of this Act is the *Employment Standards Amendment Act, 1984*.

Bill 62

(Chapter 31
Statutes of Ontario, 1984)

An Act to amend the Employment Standards Act

The Hon. R. H. Ramsay
Minister of Labour



<i>1st Reading</i>	May 10th, 1984
<i>2nd Reading</i>	June 13th, 1984
<i>3rd Reading</i>	June 27th, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 62

1984

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 40a (3) (c) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed.

(2) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by adding thereto the following subsections:

(7) Where an employee who is entitled to severance pay under this section has a right to be recalled for employment under the terms and conditions of employment, the employee may elect to be paid the severance pay forthwith or may elect to maintain the right to be recalled.

Election by employee

(8) Where the employee elects under subsection (7) to be paid the severance pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Effect of election to accept severance pay

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director,

Effect of election to maintain right of recall

- (a) to the employer, where the employee accepts employment made available under the right of recall and such acceptance takes place in the period provided under the terms and conditions for recall or within a period of twelve months from the termination whichever period is shorter and in such case the employee shall be deemed to have abandoned the right to severance pay;
- (b) to the employer, where during the period of twelve months from the termination the employee advises

the Director in writing that the employee elects to retain the right to be recalled and in such case the employee shall be deemed to have abandoned the right to severance pay; or

- (c) to the employee in any case other than a case mentioned in clause (a) or (b) and, upon payment, the employee shall be deemed to have abandoned the right to be recalled.

2. The said Act is amended by adding thereto the following section:

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trust funds

51a.—(1) Upon an application for review under section 50, the wages paid to the Director in trust shall be paid into an interest bearing account to abide the decision of a referee and shall be paid out in accordance with the decision of the referee together with any interest earned thereon.

Interest on
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(2) In a hearing under section 51, a referee may, where it appears just and equitable to do so, direct that interest calculated in the same manner as prejudgment interest in the Supreme Court be paid by an employer upon any wages to which an employee is entitled.

Commence-
ment

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Short title

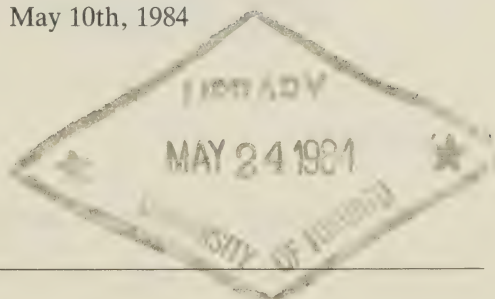
4. The short title of this Act is the *Employment Standards Amendment Act, 1984*.

Bill 63

An Act to revise the Surveyors Act

The Hon. A. W. Pope
Minister of Natural Resources

1st Reading May 10th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

The Bill revises the *Surveyors Act*. The main features of the Bill are:

1. The members of the Association of Ontario Land Surveyors will be composed of two groups. The first group will be those who are licensed under the Bill and the second group will be those who hold certificates of registration.
2. The Bill recognizes that professional surveying is divided into the fields of cadastral surveying, photogrammetry, geodesy and hydrography.
3. A licence will be required to practise cadastral surveying (the conducting of surveys to establish, locate, define or describe lines, boundaries or corners of parcels of land).
4. A certificate of authorization will be required to provide to the public services that are part of the practice of cadastral surveying.
5. Persons who are qualified to practise professional surveying in the fields of photogrammetry, geodesy and hydrography will be entitled to certificates of registration in the Association.
6. The establishment of the Registration Committee to hear matters related to licences, certificates of authorization and certificates of registration. However, determinations as to academic and experience requirements for licensing will be made by the Associations Committee on Academic and Experience Requirements.
7. The establishment of the Complaints Committee, to consider and investigate complaints regarding members of the Association (including holders of certificates of registration) and holders of certificates of authorization. The Complaints Committee will have power to refer matters to the Discipline Committee.
8. The establishment of the Discipline Committee, to hear and determine specific allegations of professional misconduct and incompetence, with power to impose a wide range of penalties and provision for appeal to the Divisional Court.
9. The establishment of the Fees Mediation Committee, to mediate complaints in respect of fees.
10. The establishment of the office of Complaints Review Councillor with power to examine the procedures for the treatment of complaints and to review the treatment of specific complaints.
11. The authority of the Council of the Association to make regulations will be subject to the approval of the Lieutenant Governor in Council and to prior review by the Minister. Notice and comment provisions are included in the regulation-making procedure. In addition, the Minister may advise the Council with respect to the implementation of the Act and the regulations.

Bill 63

1984

An Act to revise the Surveyors Act

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Section

26. Duties of Discipline Committee
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "Association" means Association of Ontario Land Surveyors;

- (b) “by-laws” means by-laws made under this Act;
- (c) “certificate of authorization” means certificate of authorization issued under this Act to provide to the public services that are part of the practice of cadastral surveying;
- (d) “certificate of registration” means certificate of registration issued under this Act authorizing the holder to hold himself out as a member of the Association;
- (e) “Council” means Council of the Association;
- (f) “graphic representation” means a representation produced by an electrical, electronic, photographic or printing method and includes a representation produced on a video display terminal;
- (g) “licence” means licence issued under this Act to engage in the practice of cadastral surveying;
- (h) “licensed”, in relation to a person, means the person is the holder of a licence;
- (i) “Minister” means the Minister of Natural Resources or such other member of the Executive Council as is designated by the Lieutenant Governor in Council;
- (j) “practice of cadastral surveying” means advising on, reporting on, conducting or supervising the conducting of surveys to establish, locate, define or describe lines, boundaries or corners of parcels of land or land covered with water;
- (k) “practice of professional land surveying” means the determination of natural and man-made features of the surface of the earth and the storage and representation of such features on a chart, map, plan or graphic representation, and includes the practice of cadastral surveying;
- (l) “Registrar” means Registrar of the Association;
- (m) “regulations” means regulations made under this Act.

2.—(1) The Association of Ontario Land Surveyors, a body corporate, is continued as a corporation without share capital. Association

(2) The principal object of the Association is to regulate the practice of professional land surveying and to govern its members and holders of certificates of authorization in accordance with this Act, the regulations and the by-laws in order that the public interest may be served. Principal object

(3) For the purpose of carrying out its principal object, the Association has the following additional objects: Additional objects

1. To establish, maintain and develop standards of knowledge and skill among its members.
2. To establish, maintain and develop standards of qualification and practice for the practice of professional land surveying.
3. To establish, maintain and develop standards of professional ethics among its members.
4. To promote public awareness of the role of the Association.
5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.

3.—(1) The Council of the Association is continued and shall be the governing body and board of directors of the Association and shall manage and administer its affairs. Council

(2) The Council shall be composed of, Composition of Council

- (a) six persons who are members of the Association and who are elected by the members of the Association as provided by the regulations;
- (b) the president and the vice-president, each of whom shall be elected annually by and from among the members of the Association as provided by the regulations;
- (c) the immediate past president;
- (d) the Surveyor General;

- (e) two persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under this Act and who are appointed by the Lieutenant Governor in Council; and
- (f) one person who is not licensed under this Act and who is a barrister and solicitor of at least ten years standing in Ontario and who is appointed by the Lieutenant Governor in Council.

Term of
appointed
member

(3) A person appointed under clause (2) (e) or (f) shall be appointed for a term of not more than three years.

Reappointment

(4) A person appointed under clause (2) (e) or (f) may be reappointed for one or more terms of not more than three years each.

Remuneration
of appointed
member

(5) A person appointed under clause (2) (e) or (f) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as are determined by the Lieutenant Governor in Council.

Idem

(6) No person shall be elected or appointed to the Council unless he is a Canadian citizen.

Qualifica-
tions to
vote

(7) Every member of the Association who is not in default of payment of the annual fee prescribed by the by-laws is qualified to vote at an election of members of the Council.

Registrar
and staff

(8) The Council shall appoint during pleasure a Registrar and may appoint one or more deputy registrars who shall have the powers of the Registrar for the purposes of this Act, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the Association.

Quorum

(9) A majority of the members of the Council constitutes a quorum.

Vacancies

(10) Where one or more vacancies occur in the membership of the Council, the members remaining in office constitute the Council so long as their number is not fewer than a quorum.

Filling
of
vacancy

(11) A vacancy on the Council caused by the death, resignation, removal or incapacity to act of an elected member of the Council shall be filled by a member of the Association,

- (a) where a quorum of the Council remains in office, appointed by the majority of the Council, and the

member so appointed shall be deemed to be an elected member of the Council; or

- (b) where no quorum of the Council remains in office, elected in accordance with the regulations,

and the member so appointed or elected shall hold office for the unexpired portion of the term of office of the member whose office he is elected or appointed to fill.

- (12) The Council shall meet at least four times a year.

Meetings
of Council

(13) The members of the Council who were elected and in office immediately before this Act comes into force shall continue in office and shall be deemed to be the members referred to in clauses (2) (a) and (b) until the expiration of the term for which they were elected or until the office otherwise becomes vacant.

Continuation
of Council
members

4. The Association shall hold an annual meeting of the members of the Association not more than fifteen months after the holding of the last preceding annual meeting.

Annual
meetings

5.—(1) Every person licensed by the Association is a member of the Association, subject to any term, condition or limitation to which the licence is subject.

Membership

(2) Every person who is the holder of a certificate of registration is a member of the Association subject to any term, condition or limitation to which the certificate of registration is subject.

Idem

(3) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member.

Resignation
of
membership

6. In addition to his other powers and duties under this Act, the Minister may,

Powers
of
Minister

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the

Council to implement policies and to enforce its regulations and procedures.

Regulations

7.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

1. defining constituencies and prescribing the number of representatives on the Council of each constituency;
2. respecting and governing the qualifications, nomination, election and term or terms of office of the members to be elected to the Council, and controverted elections;
3. prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
4. respecting the composition of the committees required by this Act, other than the Complaints Committee and the Discipline Committee, the mechanism of the appointment of members of the committees and procedures ancillary to those specified in this Act in respect of any committee;
5. respecting matters of practice and procedure before committees required under this Act not inconsistent with this Act and the *Statutory Powers Procedure Act*;
6. prescribing the quorums of the committees required by this Act, except the Complaints Committee and the Discipline Committee;
7. prescribing classes of persons whose interests are related to those of the Association and the privileges of persons in the classes in relation to the Association;
8. respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences, certificates of authorization and certificates of registration, and the requirements and qualifications therefor, including but not limited to regulations respecting,
 - i. the scope, standards and conduct of any examination set or approved by the Council as

- a licensing requirement or as a requirement for a certificate of registration,
 - ii. the curricula and standards of professional training programs offered by the Council,
 - iii. the academic, experience and other requirements for admission into professional training programs,
 - iv. the academic and experience requirements for the issuance of a licence, and
 - v. the academic and experience requirements for the issuance of a certificate of registration;
- 9. prescribing terms and conditions of licences, certificates of authorization or certificates of registration;
 - 10. prescribing forms of applications for licences, certificates of authorization and certificates of registration and requiring their use;
 - 11. for the purposes of section 14, prescribing a proportion greater than 70 per cent of the shares of corporations that engage in the business of providing services that are within the practice of cadastral surveying;
 - 12. requiring the making of returns of information in respect of the holdings of shares and the officers and directors of corporations that apply for or hold certificates of authorization, and prescribing and requiring the use of forms of such returns;
 - 13. requiring and governing the signing and sealing of documents and drawings by members of the Association or by members entered on a specific register of the Association, specifying the forms of seals and respecting the issuance and ownership of seals;
 - 14. requiring the making of returns of information by members of the Association and holders of certificates of authorization in respect of names, addresses, telephone numbers, associates, partners, employees and professional liability insurance, and prescribing and requiring the use of forms of such returns;

15. governing the use of names and designations in the practice of professional land surveying by members of the Association and holders of certificates of authorization;
16. providing for the maintenance and inspection of registers of persons permitted to engage in the practice of professional land surveying;
17. prescribing and governing standards of practice and performance standards for the practice of professional land surveying;
18. providing for the setting of schedules of suggested fees for the practice of professional land surveying and for the publication of the schedules;
19. respecting the advertising of the practice of professional land surveying;
20. prescribing a code of ethics;
21. defining professional misconduct for the purposes of this Act;
22. providing for the designation of members of the Association as specialists, prescribing the qualifications and requirements for designation as a specialist, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the Association;
23. providing for inspection programs related to the practice of professional land surveying, including programs for the inspection of records, other than financial records, of members of the Association and holders of certificates of authorization;
24. providing for the compilation of statistical data on the supply, distribution and professional activities of members of the Association and holders of certificates of authorization and on remuneration for the practice of professional land surveying and requiring members of the Association and holders of certificates of authorization to provide the information necessary to compile such statistics, but persons engaged in the administration of this Act shall maintain secret the names of persons providing the

information as a matter that comes to their knowledge in the course of their duties under this Act;

25. requiring members of the Association or holders of certificates of authorization, or both of them, to obtain and to maintain insurance against liability that may be incurred in the practice of professional land surveying, respecting the terms and conditions and prescribing the minimum amounts of such insurance, requiring such members and holders to provide to the Registrar proof of the insurance coverage, and respecting the form of the proof and the times when the proof shall be provided;
26. providing for the entering into of arrangements by the Association for its members and holders of certificates of authorization respecting indemnity for professional liability and requiring the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members of the Association and holders of certificates of authorization in respect of professional liability;
27. exempting any class of members or holders of certificates of authorization from the requirement to be insured in respect of professional liability, and classifying members or holders of certificates of authorization for the purpose of such exemption;
28. requiring members of the Association or holders of certificates of authorization, or both, to inform the Registrar in respect of claims or impending claims against them for professional liability;
29. prohibiting or regulating the practice of professional land surveying where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
30. providing for a program of continuing education of members of the Association;
31. respecting the duties and authority of the Registrar;
32. prescribing qualifications and requirements that shall be complied with to obtain the reinstatement of a licence or a certificate of authorization that was cancelled by the Registrar;

33. classifying and exempting any class of holders of licences, certificates of registration or certificates of authorization from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable;
34. prescribing any matter referred to in this Act as prescribed by the regulations.

Confirmation
by members

(2) The Council shall not request that the Lieutenant Governor in Council approve a regulation passed by the Council until the regulation is confirmed by the members of the Association.

Voting

(3) The members of the Association may confirm a regulation by a majority of those voting,

- (a) at an annual meeting;
- (b) at a general meeting of the Association called for the purpose; or
- (c) by means of a vote conducted by mail.

Distribution
of
regulations

- (4) A copy of each regulation made under subsection (1),
- (a) shall be forwarded to each member of the Association and to each holder of a certificate of authorization; and
 - (b) shall be available for public inspection in the office of the Association.

By-laws

8.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Association not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

1. prescribing the seal of the Association;
2. providing for the execution of documents by the Association;
3. respecting banking and finance;
4. fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;

5. respecting the calling, holding and conducting of meetings of the Council and the duties of members of the Council;
6. providing for meetings of the Council and committees, except in a proceeding in respect of a licence or a certificate of authorization or a certificate of registration, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Council or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
7. providing that the Council or a committee may act upon a resolution consented to by the signatures of all members of the Council or the committee except in a proceeding in respect of a licence or a certificate of authorization or a certificate of registration, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Council or the committee duly called, constituted and held for that purpose;
8. respecting the calling, holding and conducting of meetings of the membership of the Association;
9. prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
10. delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
11. prescribing the positions and qualifications of officers of the Association, providing procedures for their selection and the filling of vacancies in the offices of the Association, and prescribing the duties of officers of the Association;
12. providing for the appointment of inspectors for the purposes of this Act;
13. prescribing forms and providing for their use;

14. providing procedures for the making, amending and revoking of the by-laws;
15. respecting management of the property of the Association;
16. providing for the appointment, composition, powers and duties of additional or special committees;
17. respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
18. respecting the borrowing of money by the Association and the giving of security therefor;
19. respecting membership of the Association in other organizations, the payment of annual assessments and provision for representatives at meetings;
20. authorizing the making of grants for any purpose that may tend to advance knowledge of professional land surveying education, or maintain or improve the standards of practice in professional land surveying or support and encourage public information and interest in the role of professional land surveying in society;
21. respecting scholarships, bursaries and prizes related to the study of professional land surveying;
22. prescribing the amounts of and requiring the payment of annual fees by members of the Association and holders of certificates of authorization and by students and members of related classes recognized by the Association, and fees for licensing, certification, registration, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
23. providing for the establishment of group insurance plans, other than for professional liability, in which members of the Association may participate on a voluntary basis;

24. regarding such other matters as are entailed in carrying on the business of the Association and are not included in section 7.

(2) A by-law passed by the Council is not effective until confirmed by the members of the Association. Confirmation
by members

(3) The members of the Association may confirm a by-law by a majority of those voting, Voting

- (a) at an annual meeting;
- (b) at a general meeting of the Association called for the purpose; or
- (c) by means of a vote conducted by mail.

(4) A copy of the by-laws made under subsection (1) and amendments thereto, Distribution
of by-laws

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the Association.

9.—(1) The Council shall establish and appoint as provided in this Act the following committees: Committees

- (a) Executive Committee;
- (b) Academic and Experience Requirements Committee;
- (c) Registration Committee;
- (d) Complaints Committee;
- (e) Discipline Committee;
- (f) Fees Mediation Committee,

and may establish such other committees as the Council from time to time considers necessary.

(2) Where one or more vacancies occur in the membership of a committee, the members remaining in office constitute the committee so long as their number is not fewer than a quorum of the committee. Vacancies

Executive
Committee

10.—(1) The Council may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Council, other than to make, amend or revoke a regulation or a by-law.

Urgent
matters

(2) Subject to ratification by the Council at its next ensuing meeting, the Executive Committee may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or a by-law.

Cadastral
surveying,
licence
required

11.—(1) No person shall engage in the practice of cadastral surveying or hold himself out as engaging in the practice of cadastral surveying unless licensed under this Act.

Certificate
of
authorization

(2) No person shall provide to a member of the public a service that is part of the practice of cadastral surveying except under and in accordance with a certificate of authorization.

Proof of
practice

(3) For the purposes of subsections (1) and (2), proof of the performance of one act in the practice of cadastral surveying on one occasion is sufficient to establish engaging in the practice of cadastral surveying.

Certificate
of
registration

(4) No person shall hold himself out as the holder of a certificate of registration unless such person is the holder of a certificate of registration issued under this Act.

Issuance
of licence

12.—(1) The Registrar shall issue a licence to a natural person who applies therefor in accordance with the regulations and,

- (a) is a citizen of Canada or has the status of a permanent resident of Canada;
- (b) is not less than eighteen years of age;
- (c) has complied with the academic requirements specified in the regulations for the issuance of the licence and has passed such examinations as the Council has set or approved in accordance with the regulations or is exempted therefrom by the Council;
- (d) has complied with the experience requirements specified in the regulations for the issuance of the licence; and
- (e) is of good character.

(2) The Registrar may refuse to issue a licence to an applicant where the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant affords grounds for belief that the applicant will not engage in the practice of cadastral surveying in accordance with the law and with honesty and integrity.

Grounds for refusal to issue licence

(3) The Registrar, on his own initiative, may refer and on the request of an applicant shall refer the application of the applicant for the issuance of a licence to the Academic and Experience Requirements Committee for a determination as to whether or not the applicant has met the academic requirements or the experience requirements or both prescribed by the regulations for the issuance of the licence.

Referral to Committee on Academic and Experience Requirements

(4) A determination by the committee under subsection (3) is final and is binding on the Registrar and on the applicant.

Determination by committee

(5) The committee is not required to hold or to afford to any person a hearing or an opportunity to make submissions before making a determination under subsection (3).

Hearing

(6) The Registrar shall give notice to the applicant of a determination by the committee under subsection (3).

Notice of determination

13. A corporation that holds a certificate of authorization may provide services that are within the practice of cadastral surveying.

Corporation

14.—(1) The Registrar shall issue a certificate of authorization to a licensed member of the Association who applies therefor in accordance with the regulations and who meets the requirements and qualifications prescribed by the regulations for the issuance of the certificate of authorization.

Issuance of certificate of authorization

(2) The Registrar shall issue a certificate of authorization to a corporation that applies therefor in accordance with the regulations and meets the following requirements:

Issuance of certificate of authorization to corporation

1. The primary function of the corporation must be to engage in the business of providing services that are within the practice of cadastral surveying.
2. At least one director or full-time employee of the corporation must be a licensed member of the Association who holds a certificate of authorization and who agrees to personally supervise and direct the practice of cadastral surveying for the corporation.

3. Not less than 70 per cent of each class of shares of the corporation must be owned by and registered in the name of one or more licensed members of the Association.

Issuance of
certificate
of
authorization

(3) The Registrar shall issue a certificate of authorization to a partnership of licensed members of the Association that applies therefor in accordance with the regulations and that proposes to engage in the practice of cadastral surveying.

Past
conduct

(4) The Registrar may refuse to issue or may suspend or revoke a certificate of authorization where,

- (a) the Registrar is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant for or the holder of the certificate of authorization or the past conduct of a person who is in a position of authority or responsibility in the operation of the business of the applicant for or the holder of the certificate of authorization affords grounds for the belief that the applicant or holder will not engage in the business of providing services that are within the practice of cadastral surveying in accordance with the law and with honesty and integrity; or
- (b) the holder of the certificate of authorization does not meet the requirements or the qualifications for the issuance of the certificate of authorization set out in the regulations; or
- (c) there is a breach of a condition of the certificate of authorization.

Refusal or
revocation

(5) The Registrar may refuse to issue a certificate of authorization to a licensed member of the Association or may revoke a certificate of authorization held by a licensed member of the Association where the Registrar is of the opinion, upon reasonable and probable grounds, that the member has not engaged in the practice of cadastral surveying during the period of five years preceding the date of the refusal or revocation.

Supervision
by Ontario
land surveyor

15.—(1) A natural person, a partnership or a corporation that engages in the business of providing services that are within the practice of cadastral surveying under the authority of a certificate of authorization shall provide the services only under the personal supervision and direction of a licensed member of the Association.

(2) A member of the Association who personally supervises and directs the providing of services within the practice of cadastral surveying by a holder of a certificate of authorization or who assumes responsibility for and supervises the practice of cadastral surveying related to the providing of services by a holder of a certificate of authorization is subject to the same standards of professional conduct and competence in respect of the services and the related practice of cadastral surveying as if the services were provided or the practice of cadastral surveying was engaged in by the member of the Association.

Professional
responsi-
bility of
supervising
Ontario land
surveyor

16.—(1) The Registrar shall issue a certificate of registration in a branch of professional land surveying to an applicant therefor who meets the requirements and qualifications prescribed by the regulations in relation to the branch.

Certificate
of
registration

(2) Subsection (1) applies in respect of professional land surveying in the branches of photogrammetry, geodesy and hydrography and such other branches as are prescribed by the regulations but does not apply in respect of cadastral surveying.

Idem

17.—(1) Where the Registrar proposes,

Hearing by
Registration
Committee

- (a) to refuse an application for a licence, a certificate of authorization or a certificate of registration;
- (b) to revoke a certificate of authorization or a certificate of registration; or
- (c) to issue a licence, a certificate of authorization or a certificate of registration subject to terms, conditions or limitations,

the Registrar shall serve notice of his proposal, together with written reasons therefor, on the applicant.

(2) Subsection (1) does not apply in respect of a refusal to issue a licence or a certificate of registration to a person who was previously licensed or who previously held a certificate of registration and whose licence or certificate of registration was suspended or revoked as a result of a decision of the Discipline Committee.

Exceptions

(3) Subsection (1) does not apply in respect of a refusal to issue a certificate of authorization to a person or a partnership that previously held a certificate of authorization and whose certificate of authorization was suspended or revoked as a result of a decision of the Discipline Committee.

Idem

Notice

(4) A notice under subsection (1) shall state that the applicant is entitled to a hearing by the Registration Committee if the applicant delivers, within thirty days after the notice under subsection (1) is served on the applicant, notice in writing requiring a hearing by the Registration Committee, and the applicant may so require such a hearing.

Power of Registrar where no hearing

(5) Where the applicant does not require a hearing by the Registration Committee in accordance with subsection (4), the Registrar may carry out the proposal stated in the notice under subsection (1).

Hearing by Registration Committee

(6) Where an applicant requires a hearing by the Registration Committee in accordance with subsection (1), the Registration Committee shall appoint a time for, give notice of and shall hold the hearing.

Disability of member

(7) Where the Registration Committee commences a hearing and a member of the Registration Committee becomes unable to act, the remaining members may complete the hearing notwithstanding the absence of the member who is unable to act.

Continuation on expiry of committee membership

(8) Where a proceeding is commenced before the Registration Committee and the term of office on the Council or on the committee of a member sitting for the hearing expires or is terminated other than for cause before the proceeding is disposed of but after evidence is heard, the member shall be deemed to remain a member of the Registration Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Powers of Registration Committee re licences

(9) Following upon a hearing under this section in respect of a proposal by the Registrar in relation to a licence, the Registration Committee by order may,

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of cadastral surveying with competence and integrity, direct the Registrar to issue a licence to the applicant;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,

- (i) direct the Registrar to refuse to issue a licence to the applicant, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the practice of cadastral surveying with competence and integrity, exempt the applicant from any of the requirements and qualifications of this Act and the regulations and direct the Registrar to issue a licence; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of cadastral surveying with competence and integrity,
- (i) require the applicant to take and successfully complete such examinations as the Registration Committee may set or approve and to pay such fees therefor as the Registration Committee fixes,
 - (ii) require the applicant to take such additional training as the Registration Committee specifies, or
 - (iii) direct the Registrar to issue a licence subject to such terms, conditions and limitations as the Registration Committee specifies.

(10) Following upon a hearing under this section in respect of a proposal by the Registrar in relation to a certificate of authorization, the Registration Committee by order may,

Powers of
Registration
Committee re
certificates of
authorization

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the business of providing services that are within the practice of cadastral surveying with competence and integrity, direct the Registrar to issue a certificate of authorization to the applicant or to not revoke the certificate of authorization held by the applicant, as the case requires;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations,

- (i) direct the Registrar to refuse to issue a certificate of authorization to the applicant or to revoke the certificate of authorization held by the applicant, or
- (ii) where the committee is of the opinion upon reasonable grounds that the applicant will engage in the business of providing services that are within the practice of cadastral surveying with competence and integrity, exempt the applicant from any of the requirements and qualifications of this Act and the regulations and direct the Registrar to issue a certificate of authorization to the applicant or to not revoke the certificate of authorization held by the applicant, as the case requires; or
- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the business of providing services that are within the practice of cadastral surveying with competence and integrity, direct the Registrar to issue a certificate of authorization subject to such terms, conditions and limitations as the Registration Committee specifies.

Powers of
Registration
Committee re
certificates of
registration

(11) Following upon a hearing under this section in respect of a proposal by the Registrar in relation to a certificate of registration, the Registration Committee by order may,

- (a) where the committee is of the opinion upon reasonable grounds that the applicant meets the requirements and qualifications prescribed by the regulations, direct the Registrar to issue a certificate of registration to the applicant or to not revoke the certificate of registration held by the applicant, as the case requires;
- (b) where the committee is of the opinion upon reasonable grounds that the applicant does not meet the requirements and qualifications prescribed by the regulations,
 - (i) direct the Registrar to refuse to issue a certificate of registration to the applicant or to revoke the certificate of registration held by the applicant, as the case requires, or
 - (ii) where the committee is of the opinion upon reasonable grounds that the applicant will

engage in the practice of professional surveying with competence and integrity, exempt the applicant from any of the requirements and qualifications prescribed by the regulations and direct the Registrar to issue a certificate of registration to the applicant or to not revoke the certificate of registration held by the applicant, as the case requires; or

- (c) where the committee is of the opinion upon reasonable grounds that it is necessary in order to ensure that the applicant will engage in the practice of professional surveying with competence and integrity, direct the Registrar to issue a certificate of registration to the applicant subject to such terms, conditions and limitations as the Registration Committee specifies.

(12) The Registration Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the applicant following upon a hearing and that there are reasonable grounds for applying for the extension, and the Registration Committee may give such directions as it considers proper consequent upon the extension.

Extension of time for requiring hearing

(13) The Registrar and the applicant who has required the hearing are parties to proceedings before the Registration Committee under this section.

Parties

(14) The applicant shall be given a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements in respect of the licence, the certificate of authorization or the certificate of registration, as the case requires.

Opportunity to show compliance

(15) A party to proceedings under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination of documentary evidence

(16) Members of the Registration Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for both parties to participate, but the Registrar

Members holding hearing not to have taken part in investigation, etc.

tion Committee may seek legal advice from a person who is not counsel in the proceedings and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(17) The oral evidence taken before the Registration Committee at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Only
members
at hearing
to participate
in decision

(18) No member of the Registration Committee shall participate in a decision of the Registration Committee following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

(19) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Registration Committee within a reasonable time after the matter in issue has been finally determined.

Registers

18.—(1) The Registrar shall maintain registers in which is entered every person who is a member of the Association and every holder of a certificate of authorization.

Notation as
to terms,
conditions,
limitations

(2) The Registrar shall note in the registers the terms, conditions and limitations attached to each licence, certificate of authorization and certificate of registration.

Notation
as to
revocation,
suspension,
etc.

(3) The Registrar shall note in the registers every revocation, suspension and cancellation or termination of a licence, certificate of authorization or certificate of registration.

Notation as
to other
information

(4) The Registrar shall note in the registers such other information as the Registration Committee or the Discipline Committee directs.

Inspection

(5) Any person has the right to inspect during normal business hours the registers maintained by the Registrar.

Copies

(6) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers maintained by the Registrar.

Continuation
of
memberships

19.—(1) Every member of the Association under the *Surveyors Act*, being chapter 492 of the Revised Statutes of Ontario, 1980, immediately before this Act comes into force shall be deemed to be licensed in the same manner as if issued a licence under this Act.

(2) Every certificate of authorization issued under the said Act and in effect immediately before this Act comes into force continues in the same manner as if issued under this Act.

Continuation
of
certificates
of
authorization

(3) Subsection (2) applies in the case of a corporation notwithstanding that the corporation does not comply with the requirement that not less than 70 per cent of each class of shares of the corporation must be owned by and registered in the name of one or more licensed members of the Association, if a majority of each class of shares of the corporation is owned by and registered in the name of one or more members of the Association.

Idem,
corporations

20.—(1) The Registrar may cancel a licence, a certificate of authorization or a certificate of registration for non-payment of any fee prescribed by the by-laws after giving the member or the holder of the certificate of authorization at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member or holder.

Cancellation
for default
of fees

(2) A person who was a member or a holder of a certificate of authorization whose licence, certificate of authorization or certificate of registration was cancelled by the Registrar under subsection (1) is entitled to have the licence, certificate of authorization or certificate of registration reinstated upon compliance with the requirements and qualifications prescribed by the regulations.

Reinstatement

21.—(1) The Complaints Committee shall be composed of,

Complaints
Committee

- (a) at least one member of the Council who was elected to the Council;
- (b) at least one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and
- (c) such other members of the Association as may be appointed by the Council.

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Idem

(3) The Council shall name one member of the Complaints Committee to be chairman.

Chairman

Quorum

(4) Three members of the Complaints Committee, of whom one shall be a person elected to the Council, constitute a quorum.

Duties of
Complaints
Committee

22.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of any member of the Association but no action shall be taken by the Committee under subsection (2) unless,

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause (a); or
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

Decision
and
reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of subsection (4) and, where the decision is made under clause (2) (b), its reasons therefor.

Notice

(4) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the written decision made by the Complaints Committee and its reasons therefor, if any, together with notice advising the complainant of his right to apply to the Complaints Review Councillor under section 24.

Complaints
Review
Councillor

23.—(1) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council.

(2) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee.

Idem

(3) The Complaints Review Councillor may examine from time to time the procedures for the treatment of complaints by the Association and, as mentioned in section 24, may review the treatment by the Association of individual complaints.

Examination and review by Complaints Review Councillor

(4) In an examination or review in respect of the Association, the Complaints Review Councillor shall not inquire into the merits of any particular complaint made to the Association.

Complaints Review Councillor not to inquire into merit of complaint

(5) The Complaints Review Councillor in his discretion may decide in a particular case not to make a review or not to continue a review in respect of the Association where,

Discretionary power of Complaints Review Councillor

(a) the review is or would be in respect of the treatment of a complaint that was disposed of by the Association more than twelve months before the matter came to the attention of the Complaints Review Councillor; or

(b) in the opinion of the Complaints Review Councillor,

(i) the application to the Complaints Review Councillor is frivolous or vexatious or is not made in good faith, or

(ii) the person who has made application to the Complaints Review Councillor has not a sufficient personal interest in the subject-matter of the particular complaint.

(6) Before commencing an examination or review in respect of the Association, the Complaints Review Councillor shall inform the Association of his intention to commence the examination or review.

Notice

(7) The Council shall provide to the Complaints Review Councillor such accommodation and support staff in the offices of the Association as are necessary to the performance of the powers and duties of the Complaints Review Councillor.

Office accommodation

Privacy

(8) Every examination or review by the Complaints Review Councillor in respect of the Association shall be conducted in private.

Receipt
of
information

(9) In conducting an examination or review in respect of the Association, the Complaints Review Councillor may hear or obtain information from any person and may make such inquiries as he thinks fit.

Hearing
not
required

(10) The Complaints Review Councillor is not required to hold or to afford to any person an opportunity for a hearing in relation to an examination, review or report in respect of the Association.

Duty to
furnish
information

(11) Every person who is,

- (a) a member of the Council;
- (b) an officer of the Association;
- (c) a member of a committee of the Association; or
- (d) an employee of the Association,

shall furnish to the Complaints Review Councillor such information regarding any proceedings or procedures of the Association in respect of the treatment of complaints made to the Association as the Complaints Review Councillor from time to time requires, and shall give the Complaints Review Councillor access to all records, reports, files and other papers and things belonging to or under the control of the Association or any of such persons and that relate to the treatment by the Association of complaints or any particular complaint.

Report by
Complaints
Review
Councillor

(12) The Complaints Review Councillor shall make a report following upon each examination or review by him in respect of the Association.

Report
following
upon
examination

(13) Where the report follows upon an examination of the treatment of complaints by the Association, the Complaints Review Councillor shall transmit the report to the Council.

Report
following
upon
review

(14) Where the report follows upon a review as to the treatment of a complaint by the Association, the Complaints Review Councillor shall transmit the report to the Council, to the complainant and to the person complained against.

Report to
Minister

(15) The Complaints Review Councillor may transmit a report following upon an examination or review to the Minister where, in the opinion of the Complaints Review Council-

lor, the report should be brought to the attention of the Minister.

(16) The Complaints Review Councillor may include in a report following upon an examination or review his recommendations in respect of the procedures of the Association, either generally or with respect to the treatment of a particular complaint.

Recommendations

(17) The Council shall consider each report, and any recommendations included in the report, transmitted to it by the Complaints Review Councillor and shall notify the Complaints Review Councillor of any action it has taken in consequence.

Consideration by Council

24.—(1) Where a complaint respecting a member of the Association or a holder of a certificate of authorization has not been disposed of by the Complaints Committee within ninety days after the complaint is filed with the Registrar, upon application by the complainant or on his own initiative, the Complaints Review Councillor may review the treatment of the complaint by the Complaints Committee.

Review by Complaints Review Councillor

(2) A complainant who is not satisfied with the handling by the Complaints Committee of his complaint to the Committee may apply to the Complaints Review Councillor for a review of the treatment of the complaint after the Committee has disposed of the complaint.

Application to Complaints Review Councillor

25.—(1) The Discipline Committee shall be composed of,

Discipline Committee

- (a) the persons appointed to the Discipline Committee by the Council from among the members of the Council elected to the Council; and
- (b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

(2) Three members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.

Quorum and votes

(3) Where the Discipline Committee commences a hearing and a member of the Discipline Committee becomes unable to act, the remaining members may complete the hearing notwithstanding the absence of the member who is unable to act.

Disability of member

Chairman

(4) The Council shall name one member of the Discipline Committee who is a member of and elected to the Council to be chairman.

Reference
by Council
or Executive
Committee

(5) The Council, by resolution, may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a member of the Association or a holder of a certificate of authorization specified in the resolution.

Duties of
Discipline
Committee

26.—(1) The Discipline Committee shall,

- (a) when so directed by the Council or the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association;
- (b) hear and determine matters referred to it under section 22, 25 or 34; and
- (c) perform such other duties as are assigned to it by the Council.

Professional
misconduct

(2) A member of the Association may be found guilty of professional misconduct by the Committee if,

- (a) the member has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction;
- (b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(3) The Discipline Committee may find a member of the Association to be incompetent if in its opinion,

- (a) the member has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public the member serves of a nature or to an extent that demonstrates the member is unfit to carry out the responsibilities of a person engaged in the practice of professional land surveying; or
- (b) the member or holder is suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that the member no longer be permitted to engage in the practice of professional land

surveying or that his practice of professional land surveying be restricted or, in the case of a member other than a licensed member, that the membership of the member be revoked or be restricted.

(4) Where the Discipline Committee finds a member of the Association guilty of professional misconduct or incompetence it may, by order,

Powers of
Discipline
Committee

- (a) revoke the licence or certificate of registration, as the case may be, of the member;
- (b) suspend the licence or certificate of registration, as the case may be, of the member for a stated period, not exceeding twenty-four months;
- (c) accept the undertaking of the member to limit the professional work of the member or holder in the practice of professional land surveying to the extent specified in the undertaking;
- (d) impose terms, conditions and limitations on the licence or certificate of registration, as the case may be, of the member, including but not limited, in the case of a member, to the successful completion of a particular course or courses of study, as are specified by the Discipline Committee;
- (e) impose specific restrictions on the licence or certificate of registration, as the case may be, or on the certificate of authorization, including but not limited to,
 - (i) requiring the member to engage in the practice of professional land surveying only under the personal supervision and direction of another member,
 - (ii) requiring the member to not alone engage in the practice of professional land surveying,
 - (iii) requiring the member to accept periodic inspections by the Discipline Committee or its delegate of the books, accounts, records and designs of the member in connection with his practice,
 - (iv) requiring the member to report to the Registrar or to such committee of the Council as the Discipline Committee may specify on such

matters in respect of the member's practice for such period of time, at such times and in such form, as the Discipline Committee may specify;

- (f) require that the member be reprimanded, admonished or counselled and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register;
- (g) revoke or suspend for a stated period of time the designation of the member by the Association as a specialist in any branch of professional land surveying;
- (h) impose such fine as the Discipline Committee considers appropriate, to a maximum of \$5,000, to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (i) require the member to repay, waive or reduce the fee charged by the member in respect of the practice of professional land surveying related to the finding of professional misconduct or incompetence;
- (j) subject to subsection (5) in respect of orders of revocation or suspension, direct that the finding and the order of the Discipline Committee be published in an official publication of the Association in detail or in summary and either with or without including the name of the member;
- (k) fix and impose costs to be paid by the member to the Association;
- (l) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms or for such purpose as may be specified by the Discipline Committee, including but not limited to,
 - (i) the successful completion by the member of a particular course or courses of study,
 - (ii) the production to the Discipline Committee of evidence satisfactory to it that any physical or mental handicap in respect of which the penalty was imposed has been overcome,

or any combination of them.

(5) The Discipline Committee shall cause an order of the Committee revoking or suspending a licence or certificate of registration to be published, with or without the reasons therefor, in an official publication of the Association together with the name of the holder of the revoked or suspended licence, certificate of authorization or certificate of registration.

Publication
of revocation
or suspension

(6) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published in an official publication of the Association, upon the request of the member against whom the allegation was made.

Publication
on request

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Association reimburse the member for his costs or such portion thereof as the Discipline Committee fixes and the Association shall comply with the order.

Costs

(8) Where the Discipline Committee revokes, suspends or restricts a licence or certificate of registration on the ground of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken otherwise orders, and, where the court is satisfied that it is appropriate in the circumstances, the court may so order.

Stay on
appeal for
incompetence

(9) Where the Discipline Committee revokes, suspends or restricts a licence or certificate of registration on a ground other than incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Stay on
appeal for
professional
misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member or holder.

Service of
decision of
Discipline
Committee

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Com-

Continuation
on expiry of
Committee
membership

mittee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

Discipline
proceedings,
parties

27.—(1) In proceedings before the Discipline Committee, the Association and the member of the Association whose conduct is being investigated in the proceedings are parties to the proceedings.

Examination
of
documentary
evidence

(2) A member whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members
holding
hearing
not to have
taken part in
investigation,
etc.

(3) A member of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Discipline Committee may seek legal advice from a person who is not counsel in the proceedings and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

In camera
R.S.O. 1980,
c. 484

(4) Notwithstanding anything in the *Statutory Powers Procedure Act*, hearings of the Discipline Committee shall be held *in camera*, but, if the party whose conduct is being investigated requests otherwise by a notice delivered to the Registrar at least five days before the day fixed for the hearing, the Discipline Committee shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording
of
evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies of a transcript thereof shall be furnished only to the parties at their own cost.

Evidence
R.S.O. 1980,
c. 484

(6) Notwithstanding section 15 of the *Statutory Powers Procedure Act*, nothing is admissible in evidence before the Disci-

pline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

(7) No member of the Discipline Committee shall participate in a decision of the Committee following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Only members at hearing to participate in decision

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

28.—(1) A party to proceedings before the Registration Committee or the Discipline Committee may appeal to the Divisional Court, in accordance with the rules of court, from the decision or order of the committee.

Appeal to court

(2) Upon the request of a party desiring to appeal to the Divisional Court and upon payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

Certified copy of record

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee to take any action which the committee may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee or the court may refer the matter back to the committee for rehearing in whole or in part, in accordance with such directions as the court considers proper.

Powers of court on appeal

29.—(1) No person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee.

Fees Mediation Committee

(2) The Fees Mediation Committee,

Duties of Fees Mediation Committee

(a) shall hear and mediate any written complaint by a client of a member of the Association or of a holder of a certificate of authorization in respect of a fee charged for services in the practice of professional land surveying provided to the client; and

- (b) shall perform such other duties as are assigned to it by the Council.

Arbitration
by Fees
Mediation
Committee

(3) The Fees Mediation Committee, with the written consent of all parties to the dispute, may arbitrate a dispute in respect of a fee between a client and a member of the Association or a holder of a certificate of authorization and in that case the decision of the Fees Mediation Committee is final and binding on all parties to the dispute.

Application
of
R.S.O. 1980,
c. 25

(4) Where the Fees Mediation Committee acts as arbitrator under subsection (3), the *Arbitrations Act* does not apply.

Enforcement

(5) A decision by the Fees Mediation Committee under subsection (3), exclusive of the reasons therefor, certified by the Registrar, may be filed with the Supreme Court or a county or district court and when filed the decision may be enforced in the same manner as a judgment of the court.

Registrar's
investigation

30.—(1) Where the Registrar believes on reasonable and probable grounds that a member of the Association has committed an act of professional misconduct or incompetence or that there is cause to refuse to issue or to suspend or revoke a certificate of authorization, the Registrar by order may appoint one or more persons to make an investigation to ascertain whether such act has occurred or there is such cause, and the person or persons appointed shall report the result of the investigation to the Registrar.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member or holder of the certificate of authorization in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of the member or holder and examine books, records, documents and things relevant to the subject-matter of the investigation and, for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Order by
provincial
judge

(4) Where a provincial judge is satisfied on evidence upon oath,

- (a) that the Registrar by order has appointed one or more persons to make an investigation; and
- (b) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the member of the Association or holder of a certificate of authorization whose affairs are being investigated and to the subject-matter of the investigation,

the provincial judge may issue an order authorizing the person or persons making the investigation, together with such police officer or officers as they call upon to assist them, to enter and search, by force, if necessary, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them.

(5) An order issued under subsection (4) shall be executed at reasonable times as specified in the order. Execution of order

(6) An order issued under subsection (4) shall state the date on which it expires, which shall be a date not later than fifteen days after the order is issued. Expiry of order

(7) A provincial judge may receive and consider an application for an order under subsection (4) without notice to and in the absence of the member of the Association or holder of a certificate of authorization whose affairs are being investigated. Ex parte application

(8) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under this section relating to the member or holder whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member or holder whose practice is being investigated. Removal of books, etc.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as proof in the absence of evidence to the contrary of the original book, record or document and its contents. Admissibility of copies

Report of
Registrar

(10) The Registrar shall report the results of the investigation to the Council or such committee as the Registrar considers appropriate.

Information
re insurance
claims,
interpretation

31.—(1) In this section, “insurer” means a person offering insurance in respect of liability incurred in the practice of professional land surveying.

Information

(2) Upon the request of the Registrar, an insurer shall furnish to the Registrar any information that is in the possession of the insurer and that is specified in the request related to a claim or claims for indemnity in respect of the practice of professional land surveying.

Exception

(3) Subsection (2) does not apply in relation to medical information in respect of a person unless the person or, in the case of a minor, a parent or other person who has lawful custody of the minor consents to the furnishing of the information.

Transmittal
of
information

(4) The Registrar may forward any information referred to in subsection (2) to such committee as he considers appropriate.

Professional
liability
insurance

32.—(1) No member of the Association or holder of a certificate of authorization shall engage in the practice of professional land surveying unless insured against professional liability in accordance with the regulations or in accordance with arrangements under subsection (2).

Arrange-
ments by
Association

(2) The Association may make arrangements respecting insurance against professional liability for members of the Association and holders of certificates of authorization.

Premiums

(3) Arrangements under subsection (2) may include arrangements respecting the payment and remission of premiums.

Levies

(4) The Association may prescribe levies that shall be paid by members of the Association and holders of certificates of authorization related to arrangements under subsection (2).

Surrender of
cancelled
licence,
etc.

33. Where a licence, certificate of authorization or certificate of registration is revoked or cancelled, the former holder thereof shall forthwith deliver the licence or certificate and related seal to the Registrar.

Restoration
of licence,
etc.

34.—(1) A person whose licence, certificate of authorization or certificate of registration has been revoked for cause under this Act, or whose membership has been cancelled for

cause under a predecessor of this Act, may apply in writing to the Registrar for the issuance of a licence, certificate of authorization or certificate of registration, but such application shall not be made sooner than two years after the revocation or cancellation.

(2) The Registrar shall refer the application to the Discipline Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the applicant.

Reference to
Discipline
Committee

(3) The provisions of this Act applying to hearings by the Registration Committee, except section 28, apply with necessary modifications to proceedings of the Discipline Committee under this section.

Procedures

(4) Notwithstanding subsections (1), (2) and (3), the Council may direct at any time that a licence, certificate of authorization or certificate of registration be issued to a person whose licence, certificate of authorization or certificate of registration has previously been revoked for cause or suspended for cause or that a suspension or cancellation for cause under a predecessor of this Act be removed, subject to such terms, conditions and limitations as the Council considers appropriate.

Direction
by Council
to issue
licence

35.—(1) Every person engaged in the administration of this Act, including any person making a review or investigation under section 24 or 30, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

Confiden-
tiality

- (a) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any action or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations.

Testimony
in civil
action

Use of
"O.L.S." by
corporation

36.—(1) A corporation whose name includes the title "Ontario land surveyor" or the initials "O.L.S." and that ceases to hold a subsisting certificate of authorization shall not carry on or engage in any business until the title "Ontario land surveyor" or the initials "O.L.S." are removed from the name of the corporation.

Exception

(2) Subsection (1) does not apply to prevent a corporation from carrying on an activity necessary to the winding up of the corporation.

Proceedings
to prohibit
continuation
or repetition
of contra-
vention

37. Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Association may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will result or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Penalties

38.—(1) Every person who contravenes section 11 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000.

Idem

(2) Every person who is not a member of the Association and who uses the title "Ontario land surveyor" or the initials "O.L.S." as an occupational designation is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem

(3) Every person who obstructs a person appointed to make an investigation under section 30 in the course of his duties is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Idem

(4) Every corporation that contravenes section 36 is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem,
director or
officer of
corporation

(5) Where a corporation is guilty of an offence under subsection (1), (2), (3) or (4), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.

(6) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3), (4) or (5) after two years after the date on which the offence was, or is alleged to have been, committed. Limitation

39.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate of authorization or certificate of registration or a false document with respect to a register maintained by the Registrar under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Falsification
of
certificate

(2) Any person who wilfully procures or attempts to procure himself to be licensed or to be issued a certificate of authorization or a certificate of registration under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000, and every person knowingly aiding and assisting him therein is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Offences
for false
representation

(3) Proceedings to obtain a conviction for an offence under subsection (1) shall not be commenced after the expiration of six months after the date on which the offence was, or is alleged to have been, committed. Limitation
period

40. Where licensing or the holding of a certificate of authorization under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the defendant has done such act or thing, the burden of proving that he was so licensed or that he held a subsisting certificate of authorization under this Act rests upon the defendant. Onus of
proof

41. A notice or document required by this Act to be served or delivered may be served or delivered personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or delivered by mail, the service or delivery shall be deemed to have been made on the tenth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date. Service
of notice

Registrar's
certificate
as evidence

42. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Association, is admissible in evidence in all courts as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Immunity

43.—(1) No action or other proceeding for damages shall be instituted against the Association, a committee of the Association or a member of the Association or committee, or an officer, employee, agent or appointee of the Association for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Councillor
indemnified
in suits
respecting
execution of
his office

(2) Every member of the Council and every officer, member or employee of the Association, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the Association, given at any meeting of the members of the Association, from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office, employment or appointment; and
- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

Annual
report

44.—(1) The Council shall make a report annually to the Minister containing such information as the Minister requires.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Application
of
R.S.O. 1980,
c. 95

45.—(1) The *Corporations Act* does not apply in respect of the Association except for the following sections of that

Act which shall apply with necessary modifications in respect of the Association:

1. Section 81 (which relates to liability for wages).
2. Section 94 (which relates to auditors) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
3. Subsection 95 (1) (which relates to the auditor's qualifications) and, for the purpose, the subsection shall be deemed not to include,
 - i. the exception as provided in subsection 95 (2); and
 - ii. the reference to an affiliated company.
4. Section 96 (which relates to the auditor's functions).
5. Subsection 97 (1), exclusive of clause 97 (1) (b), (which relates to the auditor's report) and, for the purpose, the Association shall be deemed to be a private company.
6. Subsection 97 (3) (which relates to the auditor's report).
7. Section 122 (which relates to the liability of members).
8. Section 276 (which relates to the holding of land) and, for the purpose, the Minister shall be deemed to be the Minister referred to in the section.
9. Section 280 (which relates to making contracts).
10. Section 281 (which relates to power of attorney).
11. Section 282 (which relates to authentication of documents) except in respect of information from the records required to be kept by the Registrar.
12. Section 292 (which relates to validity of acts of directors).
13. Section 297 (which relates to directions by a court as to holding a meeting).
14. Section 299 (which relates to minutes of meetings).

15. Section 302 (which relates to books of account).
16. Section 303 (which relates to untrue entries) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
17. Section 304 (which relates to the place of keeping and the inspection of records) and, for the purpose,
 - i. the section shall be deemed not to refer to sections 41 and 43 of that Act, and
 - ii. the Minister shall be deemed to be the Minister referred to in the section.
18. Section 305 (which relates to inspection of records) and, for the purpose, the section shall be deemed not to refer to section 41 of that Act.
19. Section 310 (which relates to investigations and audits).
20. Section 323 (which relates to evidence of by-laws and certificates of amounts due).
21. Section 329 (which relates to removal of proceedings into the Supreme Court).
22. Section 330 (which relates to appeals).
23. Section 331 (which relates to untrue statements) and, for the purpose,
 - i. the section shall be deemed not to refer to regulations made under that Act, and
 - ii. the Minister and the Deputy Minister to the Minister shall be deemed to be the Minister and the Deputy Minister referred to in the section.
24. Section 333 (which relates to orders by the court) and, for the purpose, the section shall be deemed not to refer to creditors.

Interpretation

(2) For the purposes of subsection (1), a member of the Association shall be deemed to be a shareholder.

Repeal

46.—(1) The *Surveyors Act*, being chapter 492 of the Revised Statutes of Ontario, 1980, is repealed.

(2) A reference in any Act or regulation to a surveyor or an Ontario land surveyor registered under the *Surveyors Act* shall be deemed to be a reference to a member of the Association licensed to engage in the practice of cadastral surveying.

References
R.S.O. 1980,
c. 492

(3) A reference in any Act or regulation to the *Surveyors Act* shall be deemed to be a reference to this Act.

Idem

47. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

48. The short title of this Act is the *Surveyors Act, 1984*.

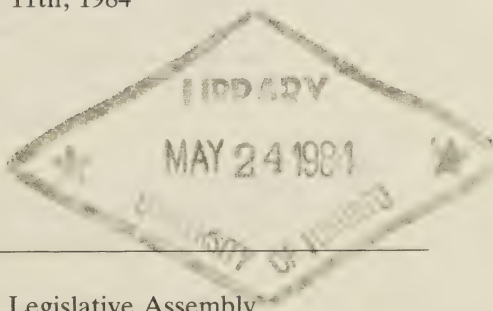
Short title

Bill 64

An Act respecting Actions arising from Transboundary Pollution between Ontario and reciprocating Jurisdictions

The Hon. R. McMurtry
Attorney General

1st Reading May 11th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The present law requires a person in one jurisdiction who is damaged by pollution arising in another jurisdiction to sue in the place where the damage occurs.

This Bill would permit the action to be brought in the place where the pollution arises as between Ontario and a reciprocating jurisdiction.

The Bill is a Uniform Act drafted and recommended jointly by the Uniform Law Conference of Canada and the National Conference of Commissioners on Uniform State Laws.

Bill 64

1984

**An Act respecting Actions arising from
Transboundary Pollution between Ontario
and reciprocating Jurisdictions**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “person” means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government in its private or public capacity, governmental subdivision or agency, or any other legal entity;
- (b) “reciprocating jurisdiction” means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States of America, or a province or territory of Canada, which has enacted this Act or provides substantially equivalent access to its courts and administrative agencies.

2. An action or other proceeding for injury or threatened injury to property or person in a reciprocating jurisdiction caused by pollution originating, or that may originate, in Ontario may be brought in Ontario.

Forum

3. A person who suffers or is threatened with injury to his person or property in a reciprocating jurisdiction caused by pollution originating, or that may originate, in Ontario has the same rights to relief with respect to the injury or threatened injury, and may enforce those rights in Ontario, as if the injury or threatened injury occurred in Ontario.

Right to relief

4. The law to be applied in an action or other proceeding brought pursuant to this Act, including what constitutes “pollution”, is the law of Ontario excluding choice of law rules.

Applicable law

Equality
of rights

5. This Act does not accord a person injured or threatened with injury in another jurisdiction any rights superior to those that the person would have if injured or threatened with injury in Ontario.

Right
additional
to those
now existing

Act binds
Crown

6. The right provided in this Act is in addition to and not in derogation of any other rights.

7. This Act binds the Crown in right of Ontario only to the extent that the Crown would be bound if the person were injured or threatened with injury in Ontario.

Regulations

8. Notwithstanding clause 1 (b), the Lieutenant Governor in Council may by regulation declare a jurisdiction to be a reciprocating jurisdiction for the purposes of this Act.

Uniformity of
application
and
construction

9. This Act shall be applied and construed to carry out its general purpose to make uniform the law with respect to the subject of this Act among jurisdictions enacting it.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

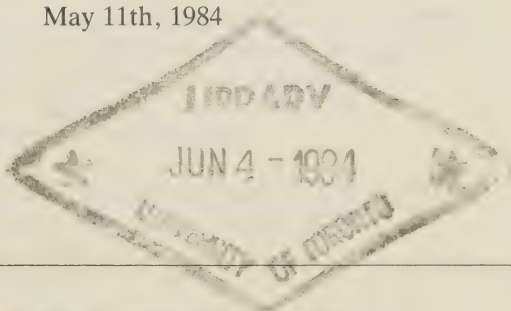
11. The short title of this Act is the *Transboundary Pollution Reciprocal Access Act, 1984*.

Bill 65

**An Act respecting a Convention between
Canada and the United Kingdom of Great Britain
and Northern Ireland providing for
the Reciprocal Recognition and Enforcement of
Judgments in Civil and Commercial Matters**

The Hon. R. McMurtry
Attorney General

1st Reading May 11th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The Bill would adopt for Ontario a Convention entered into between the Government of Canada and the Government of the United Kingdom for the reciprocal recognition and enforcement of judgments in civil and commercial matters.

The Government of the United Kingdom is about to accede to a convention with the European communities by which assets in the U.K. of persons not domiciled in the U.K. are available to satisfy judgments given anywhere in the European communities on the basis of jurisdiction assumed on grounds not now recognized.

The adoption of the convention referred to in the Bill would except the assets in the U.K. of Ontario domiciliaries from the application of the European Community convention in so far as it applies to judgments based on the "excessive" jurisdiction.

Bill 65

1984

**An Act respecting a Convention between
Canada and the United Kingdom of Great Britain
and Northern Ireland providing for
the Reciprocal Recognition and Enforcement of
Judgments in Civil and Commercial Matters**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “convention” means the Convention for Interpretation
the Reciprocal Recognition and Enforcement of Judgments in
Civil and Commercial Matters set out in the Schedule hereto.

2. The Attorney General shall,

(a) request the Government of Canada to designate Designation
Ontario as a province to which the convention of Ontario
extends; and courts

(b) determine the courts in Ontario to which appli-
cation for registration of a judgment given by a
court of the United Kingdom may be made and
request the Government of Canada to designate
those courts for the purpose of the convention.

3. On, from and after the date the convention enters into Convention
force in respect of Ontario as determined by the convention, in force
the convention is in force in Ontario and the provisions in Ontario
thereof are law in Ontario.

4. The Attorney General shall cause to be published in Publication
The Ontario Gazette the date the convention is executed, of date and
the date the convention comes into force in Ontario and the courts
courts to which application for registration of a judgment
given by a court of the United Kingdom may be made.

5. The Lieutenant Governor in Council may make such Regulations
regulations as are necessary to carry out the intent and pur-
pose of this Act.

This Act
prevails

6. Where there is a conflict between this Act and any other Act or any regulation or rule of court made thereunder, this Act prevails.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Reciprocal Enforcement of Judgments (U.K.) Act, 1984*.

SCHEDULE

CONVENTION BETWEEN CANADA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND PROVIDING FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

Canada,

and

The United Kingdom of Great Britain and Northern Ireland,

DESIRING to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil and commercial matters;

HAVE AGREED AS FOLLOWS:

PART I

DEFINITIONS

ARTICLE I

In this Convention

- (a) “appeal” includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;
- (b) “the 1968 Convention” means the Convention of 27th September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as amended;
- (c) “court of a Contracting State” means
 - (i) in relation to the United Kingdom, any court of the United Kingdom or of any territory to which this Convention extends pursuant to Article XIII,
 - (ii) in relation to Canada, the Federal Court of Canada or any court of a province or territory to which this Convention extends pursuant to Article XII,

ANNEXE

CONVENTION ENTRE LE CANADA ET LE ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD POUR ASSURER LA RECONNAISSANCE ET L'EXÉCUTION RÉCIPROQUES DES JUGEMENTS EN MATIÈRE CIVILE ET COMMERCIALE

Le Canada,

et

Le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord,

DÉSIRANT pourvoir sur une base de réciprocité à la reconnaissance et l'exécution des jugements en matière civile et commerciale,

SONT CONVENUS DES DISPOSITIONS SUIVANTES :

PARTIE I

DÉFINITIONS

ARTICLE I

Dans la présente Convention

- a) "appel" s'entend entre autres de toute procédure tendant à faire annuler un jugement ou d'une demande en vue d'obtenir un nouveau procès ou une ordonnance de surseoir à l'exécution d'un jugement;
- b) "la Convention de 1968" désigne la Convention du 27 septembre 1968 concernant la compétence judiciaire et l'exécution des décisions en matière civile et commerciale, ainsi que ses modifications;
- c) "jugement" désigne toute décision, quelle que soit son appellation (jugement, arrêt, ordonnance, etc.), rendue par un tribunal en matière civile ou commerciale, et s'entend entre autres de la sentence arbitrale qui est devenue exécutoire sur le territoire d'origine de la même manière qu'un jugement rendu par un tribunal de ce territoire;

and the expressions "court of the United Kingdom" and "court of Canada" shall be construed accordingly;

- (d) "judgment" means any decision, however described (judgment, order and the like), given by a court in a civil or commercial matter, and includes an award in proceedings on an arbitration if the award has become enforceable in the territory of origin in the same manner as a judgment given by a court in that territory;
- (e) "judgment creditor" means the person in whose favour the judgment was given, and includes his executors, administrators, successors and assigns;
- (f) "judgment debtor" means the person against whom the judgment was given and includes any person against whom the judgment is enforceable under the law of the territory of origin;
- (g) "original court" in relation to any judgment means the court by which the judgment was given;
- (h) "registering court" means a court to which an application for the registration of a judgment is made;
- (i) "territory of origin" means the territory for which the original court was exercising jurisdiction.

PART II

SCOPE OF THE CONVENTION

ARTICLE II

1. Subject to the provisions of this Article, this Convention shall apply to any judgment given by a court of a Contracting State after the Convention enters into force and, for the purposes of Article IX, to any judgment given by a court of a third State which is party to the 1968 Convention.

2. This Convention shall not apply to

- (a) orders for the periodic payment of maintenance;
- (b) the recovery of taxes, duties or charges of a like nature or the recovery of a fine or penalty;
- (c) judgments given on appeal from decisions of tribunals other than courts;

- d) "partie gagnante" désigne toute personne au profit de laquelle le jugement a été rendu, et s'entend entre autres de ses exécuteurs, de ses administrateurs, de ses héritiers et de ses ayants cause;
- e) "partie perdante" désigne toute personne contre laquelle le jugement a été rendu, et s'entend entre autres de toute personne contre laquelle le jugement peut être exécuté en vertu de la loi du territoire d'origine;
- f) "territoire d'origine" désigne le territoire sur lequel le tribunal d'origine exerçait sa compétence;
- g) "tribunal d'origine" en ce qui concerne tout jugement désigne le tribunal qui a rendu le jugement;
- h) "tribunal de l'enregistrement" désigne le tribunal auquel est soumise une demande d'enregistrement d'un jugement;
- i) "tribunal d'un État contractant" désigne :
 - (i) en ce qui concerne le Royaume-Uni, tout tribunal du Royaume-Uni ou de tout territoire auquel la présente Convention s'étend par l'application de l'article XIII;
 - (ii) en ce qui concerne le Canada, la Cour fédérale du Canada ou tout autre tribunal d'une province ou d'un territoire auquel la présente Convention s'étend par application de l'article XII,

et les expressions "tribunal du Royaume-Uni" et "tribunal du Canada" s'interprètent en conséquence.

PARTIE II

CHAMP D'APPLICATION DE LA CONVENTION

ARTICLE II

1. Sous réserve des dispositions du présent article, la présente Convention s'applique à tout jugement rendu par un tribunal d'un État contractant après l'entrée en vigueur de la Convention et, aux fins de l'article IX, à tout jugement rendu par un tribunal d'un État tiers qui est partie à la Convention de 1968.

2. La présente Convention ne s'applique pas

- a) aux ordonnances relatives au versement périodique d'une obligation alimentaire;
- b) à la perception d'impôts, de droits ou d'autres taxes semblables ni à la perception d'une amende;
- c) aux jugements rendus sur appel des décisions des tribunaux qui ne sont pas des tribunaux judiciaires;

(d) judgments which determine

- (i) the status or legal capacity of natural persons;
- (ii) custody or guardianship of infants;
- (iii) matrimonial matters;
- (iv) succession to or the administration of the estates of deceased persons;
- (v) bankruptcy, insolvency or the winding up of companies or other legal persons;
- (vi) the management of the affairs of a person not capable of managing his own affairs.

3. Part III of this Convention shall apply only to a judgment whereby a sum of money is made payable.

4. This Convention is without prejudice to any other remedy available to a judgment creditor for the recognition and enforcement in one Contracting State of a judgment given by a court of the other Contracting State.

PART III

ENFORCEMENT OF JUDGMENTS

ARTICLE III

1. Where a judgment has been given by a court of one Contracting State, the judgment creditor may apply in accordance with Article VI to a court of the other Contracting State at any time within a period of six years after the date of the judgment (or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings) to have the judgment registered, and on any such application the registering court shall, subject to such simple and rapid procedures as each Contracting State may prescribe and to the other provisions of this Convention, order the judgment to be registered.

2. In addition to the sum of money payable under the judgment of the original court including interest accrued to the date of registration, the judgment shall be registered for the reasonable costs of and incidental to registration, if any, including the costs of obtaining a certified copy of the judgment from the original court.

3. If, on an application for the registration of a judgment, it appears to the registering court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

d) aux jugements qui statuent

- (i) en matière d'état ou de capacité juridique des personnes physiques;
- (ii) en matière de garde ou de tutelle des enfants;
- (iii) en matière matrimoniale;
- (iv) en matière successorale;
- (v) en matière de faillite, d'insolvabilité ou de liquidation de sociétés ou autres personnes morales;
- (vi) en matière d'administration des affaires d'une personne incapable d'administrer ses propres affaires.

3. La Partie III de la présente Convention ne s'applique qu'aux jugements condamnant au paiement d'une somme d'argent.

4. La présente Convention ne porte pas atteinte aux autres recours que possède la partie gagnante afin de faire reconnaître et exécuter dans un État contractant un jugement rendu par un tribunal de l'autre État contractant.

PARTIE III

EXÉCUTION DES JUGEMENTS

ARTICLE III

1. Lorsqu'un jugement a été rendu par un tribunal d'un État contractant, la partie gagnante peut demander, conformément aux dispositions de l'article VI, l'enregistrement de ce jugement à un tribunal de l'autre État contractant à tout moment dans les six ans de la date du jugement (ou, s'il y a eu appel, dans les six ans de la date du dernier jugement rendu dans cette affaire). Le tribunal de l'enregistrement ordonne, sous réserve des procédures simples et rapides qui peuvent être prévues par chaque État contractant et sous réserve des autres dispositions de la présente Convention, que le jugement soit enregistré.

2. En plus de la somme d'argent à payer d'après le jugement du tribunal d'origine, y compris les intérêts échus à la date de l'enregistrement, le jugement accordant l'enregistrement comprend les frais raisonnables d'enregistrement et les frais connexes, s'il y a lieu, y compris les frais d'obtention d'une copie certifiée conforme du jugement du tribunal d'origine.

3. Dans le cas où, lors d'une demande d'enregistrement d'un jugement, il apparaît au tribunal de l'enregistrement que ce jugement porte sur diverses questions et que certaines, mais pas toutes, des dispositions du jugement sont telles que, si elles avaient été contenues dans des jugements distincts, ces jugements auraient pu être dûment enregistrés, l'enregistrement peut être accordé à l'égard des dispositions susmentionnées mais non pas à l'égard des autres.

4. Subject to the other provisions of this Convention

- (a) a registered judgment shall, for the purposes of enforcement, be of the same force and effect;
- (b) proceedings may be taken on it; and
- (c) the registering court shall have the same control over its enforcement,

as if it had been a judgment originally given in the registering court with effect from the date of registration.

ARTICLE IV

1. Registration of a judgment shall be refused or set aside if

- (a) the judgment has been satisfied;
- (b) the judgment is not enforceable in the territory of origin;
- (c) the original court is not regarded by the registering court as having jurisdiction;
- (d) the judgment was obtained by fraud;
- (e) enforcement of the judgment would be contrary to public policy in the territory of the registering court;
- (f) the judgment is a judgment of a country or territory other than the territory of origin which has been registered in the original court or has become enforceable in the territory of origin in the same manner as a judgment of that court; or
- (g) in the view of the registering court the judgment debtor either is entitled to immunity from the jurisdiction of that court or was entitled to immunity in the original court and did not submit to its jurisdiction.

2. The law of the registering court may provide that registration of a judgment may or shall be set aside if

- (a) the judgment debtor, being the defendant in the original proceedings, either was not served with the process of the original court or did not receive notice of those proceedings in sufficient time to enable him to defend the proceedings and, in either case, did not appear;
- (b) another judgment has been given by a court having jurisdiction in the matter in dispute prior to the date of judgment in the original court; or
- (c) the judgment is not final or an appeal is pending or the judgment debtor is entitled to appeal or to apply for leave to appeal against the judgment in the territory of origin.

4. Sous réserve des autres dispositions de la présente Convention

- a) le jugement enregistré a, pour les fins de son exécution, la même force et les mêmes effets;
- b) il pourra faire l'objet de procédures; et
- c) le tribunal de l'enregistrement exerce le même contrôle sur son exécution,

comme s'il s'agissait d'un jugement qui avait été rendu initialement par le tribunal de l'enregistrement et était en vigueur depuis la date de son enregistrement.

ARTICLE IV

1. L'enregistrement d'un jugement doit être refusé ou annulé

- a) si les obligations pécuniaires résultant du jugement sont éteintes;
- b) si le jugement n'est pas susceptible d'exécution sur le territoire d'origine;
- c) si le tribunal d'origine n'est pas considéré comme compétent par le tribunal de l'enregistrement;
- d) si le jugement a été obtenu par des manoeuvres frauduleuses;
- e) si l'exécution du jugement serait contraire à l'ordre public dans le territoire du tribunal de l'enregistrement;
- f) s'il s'agit d'un jugement qui émane d'un pays ou d'un territoire autre que le territoire d'origine et a été enregistré au tribunal d'origine ou est devenu exécutoire sur le territoire d'origine de la même manière qu'un jugement rendu par ce tribunal; ou
- g) si, de l'avis du tribunal de l'enregistrement, la partie perdante bénéficie de l'immunité de la juridiction de ce tribunal ou si elle bénéficiait de l'immunité devant le tribunal d'origine et ne s'était pas soumise à la compétence de ce tribunal.

2. La loi du tribunal de l'enregistrement peut rendre obligatoire ou facultative l'annulation de l'enregistrement d'un jugement

- a) si l'acte introductif d'instance émanant du tribunal d'origine n'a pas été signifié à la partie perdante, défenderesse lors de la poursuite initiale, ou que cette partie n'a pas été informée de l'action intentée en temps utile pour lui permettre de présenter une défense et, dans l'un ou l'autre cas, n'a pas comparu;
- b) si un autre jugement a été rendu par un tribunal compétent à l'égard du litige avant la date du jugement rendu par le tribunal d'origine; ou
- c) lorsqu'il ne s'agit pas d'un jugement final, ou lorsqu'un appel est pendant ou que la partie perdante a droit d'en appeler ou de demander l'autorisation d'en appeler à l'encontre du jugement dans le territoire d'origine.

3. If at the date of the application for registration the judgment of the original court has been partly satisfied, the judgment shall be registered only in respect of the balance remaining payable at that date.

4. A judgment shall not be enforced so long as, in accordance with the provisions of this Convention and the law of the registering court, it is competent for any party to make an application to have the registration of the judgment set aside or, where such an application is made, until the application has been finally determined.

ARTICLE V

1. For the purposes of Article IV (1) (c) the original court shall be regarded as having jurisdiction if

- (a) the judgment debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings;
- (b) the judgment debtor was plaintiff in, or counterclaimed in, the proceedings in the original court;
- (c) the judgment debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the territory of origin;
- (d) the judgment debtor, being a defendant in the original court, was at the time when the proceedings were instituted habitually resident in, or being a body corporate had its principal place of business in, the territory of origin;
- (e) the judgment debtor, being a defendant in the original court, had an office or place of business in the territory of origin and the proceedings were in respect of a transaction effected through or at that office or place; or
- (f) the jurisdiction of the original court is otherwise recognised by the registering court.

2. Notwithstanding anything in sub-paragraphs (d), (e) and (f) of paragraph (1), the original court shall not be regarded as having jurisdiction if

- (a) the subject matter of the proceedings was immoveable property outside the territory of origin; or
- (b) the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the territory of origin.

3. Si, au moment de la demande d'enregistrement, les obligations résultant du jugement rendu par le tribunal d'origine sont partiellement éteintes, le jugement ne sera enregistré qu'à l'égard des sommes encore dues à cette date.

4. Un jugement n'est pas exécuté tant que, conformément aux dispositions de la présente Convention et de la loi du tribunal de l'enregistrement, l'une des parties peut demander que l'enregistrement du jugement soit annulé, ou tant qu'une demande de ce genre n'aura pas été réglée définitivement.

ARTICLE V

1. Aux fins d'application de l'article IV 1) c), le tribunal d'origine est considéré comme compétent

- a) si la partie perdante, défenderesse devant le tribunal d'origine, s'est soumise à la compétence de ce tribunal en comparaisant volontairement;
- b) si la partie perdante était demanderesse principale ou reconventionnelle devant le tribunal d'origine;
- c) si, avant que l'action ne soit entamée, la partie perdante, défenderesse devant le tribunal d'origine, s'est soumise, en ce qui concerne l'objet de la contestation, à la compétence de ce tribunal ou des tribunaux du territoire d'origine;
- d) si la partie perdante défenderesse devant le tribunal d'origine avait, au moment où l'action a été intentée, une résidence habituelle sur le territoire d'origine, ou dans le cas d'une société, lorsqu'elle y avait sa principale place d'affaires;
- e) si la partie perdante, défenderesse devant le tribunal d'origine, avait sur le territoire d'origine soit une succursale, soit une place d'affaires, et que la contestation concernait une affaire traitée à cette succursale ou cette place d'affaires; ou
- f) si la compétence du tribunal d'origine est autrement admise par le tribunal de l'enregistrement.

2. Nonobstant les dispositions des alinéas d), e) et f) du paragraphe (1), le tribunal d'origine n'est pas considéré comme compétent

- a) si l'objet de la contestation était un immeuble non situé sur le territoire d'origine; ou
- b) si l'action a été entamée devant le tribunal d'origine contrairement à un engagement spécifiant que cette contestation devait être réglée autrement que par une action devant les tribunaux du territoire d'origine.

PART IV

PROCEDURES

ARTICLE VI

1. Any application for the registration in the United Kingdom of a judgment of a court of Canada shall be made

- (a) in England and Wales, to the High Court of Justice;
- (b) in Scotland, to the Court of Session;
- (c) in Northern Ireland, to the High Court of Justice.

2. Any application for the registration in Canada of a judgment of a court of the United Kingdom shall be made

- (a) in the case of a judgment relating to a matter within the competence of the Federal Court of Canada, to the Federal Court of Canada;
- (b) in the case of any other judgment, to a court of a province or territory designated by Canada pursuant to Article XII.

3. The practice and procedure governing registration (including notice to the judgment debtor and applications to set registration aside) shall, except as otherwise provided in this Convention, be governed by the law of the registering court.

4. The registering court may require that an application for registration be accompanied by

- (a) the judgment of the original court or a certified copy thereof;
- (b) a certified translation of the judgment, if given in a language other than the language of the territory of the registering court;
- (c) proof of the notice given to the defendant in the original proceedings, unless this appears from the judgment; and
- (d) particulars of such other matters as may be required by the rules of the registering court.

ARTICLE VII

All matters concerning

- (a) the conversion of the sum payable under a registered judgment into the currency of the territory of the registering court; and
- (b) the interest payable on the judgment with respect to the period following its registration,

shall be determined by the law of the registering court.

PARTIE IV

PROCÉDURE

ARTICLE VI

1. Toute demande d'enregistrement dans le Royaume-Uni d'un jugement émanant d'un tribunal du Canada doit être présentée

- a) pour l'Angleterre et le pays de Galles, à la "High Court of Justice";
- b) pour l'Écosse, à la "Court of Session";
- c) pour l'Irlande du Nord, à la "High Court of Justice".

2. Toute demande d'enregistrement au Canada d'un jugement émanant d'un tribunal du Royaume-Uni doit être présentée

- a) dans le cas d'un jugement ayant trait à une matière relevant de la compétence de la Cour fédérale du Canada, à cette Cour;
- b) dans le cas de tout autre jugement, au tribunal d'une province ou d'un territoire déterminé par le Canada par application de l'article XII.

3. Sauf stipulations contraires de la présente Convention, l'usage et la procédure régissant l'enregistrement (notamment l'avis à la partie perdante et les demandes pour faire annuler l'enregistrement) sont réglés par la loi du tribunal de l'enregistrement.

4. Le tribunal de l'enregistrement peut exiger que la demande d'enregistrement soit accompagnée

- a) du jugement du tribunal d'origine ou d'une copie certifiée conforme;
- b) d'une traduction certifiée conforme du jugement, s'il a été rendu dans une autre langue que celle du territoire du tribunal de l'enregistrement;
- c) d'un document prouvant que le défendeur devant le tribunal d'origine a été informé de l'action intentée contre lui, à moins que cela ne s'infère du jugement; et
- d) de toute autre indication que peuvent exiger les règles de pratique du tribunal de l'enregistrement.

ARTICLE VII

La loi du tribunal de l'enregistrement détermine les questions relatives

- a) à la conversion, dans la monnaie du territoire du tribunal de l'enregistrement, de la somme d'argent à payer d'après le jugement enregistré; et
- b) à l'intérêt dû à compter de la date de l'enregistrement du jugement.

PART V

RECOGNITION OF JUDGMENTS

ARTICLE VIII

Any judgment given by a court of one Contracting State for the payment of a sum of money which could be registered under this Convention, whether or not the judgment has been registered, and any other judgment given by such a court, which if it were a judgment for the payment of a sum of money could be registered under this Convention, shall, unless registration has been or would be refused or set aside on any ground other than that the judgment has been satisfied or could not be enforced in the territory of origin, be recognised in a court of the other Contracting State as conclusive between the parties thereto in all proceedings founded on the same cause of action.

PART VI

RECOGNITION AND ENFORCEMENT OF THIRD
STATE JUDGMENTS

ARTICLE IX

1. The United Kingdom undertakes, in the circumstances permitted by Article 59 of the 1968 Convention, not to recognise or enforce under that Convention any judgment given in a third State which is a Party to that Convention against a person domiciled or habitually resident in Canada.

2. For the purposes of paragraph (1)

- (a) an individual shall be treated as domiciled in Canada if and only if he is resident in Canada and the nature and circumstances of his residence indicate that he has a substantial connection with Canada; and
- (b) a corporation or association shall be treated as domiciled in Canada if and only if it is incorporated or formed under a law in force in Canada and has a registered office there, or its central management and control is exercised in Canada.

PART VII

FINAL PROVISIONS

ARTICLE X

This Convention shall not affect any conventions, international instruments or reciprocal arrangements to which both Contracting States are or will be parties and which, in relation to particular matters, govern the recognition or enforcement of judgments.

PARTIE V

RECONNAISSANCE DES JUGEMENTS

ARTICLE VIII

Le jugement rendu par un tribunal d'un État contractant condamnant au paiement d'une somme d'argent qui pourrait être enregistré sous le régime de la présente Convention, qu'il ait été enregistré ou non, ou tout autre jugement rendu par un tel tribunal qui, s'il s'agissait d'un jugement condamnant au paiement d'une somme d'argent, pourrait être enregistré sous le régime de la présente Convention, sera reconnu par le tribunal de l'autre État contractant comme ayant l'autorité de la chose jugée entre les parties dans toute action intentée sur le même objet et pour la même cause, à moins que l'enregistrement n'ait été ou ne puisse être refusé ou annulé pour tout autre motif que celui selon lequel les obligations résultant du jugement sont éteintes ou ne pourraient pas être exécutées sur le territoire d'origine.

PARTIE VI

RECONNAISSANCE ET EXÉCUTION DES
JUGEMENTS D'UN ÉTAT TIERS

ARTICLE IX

1. Le Royaume-Uni s'engage, dans les cas prévus par l'article 59 de la Convention de 1968, à ne pas reconnaître ou exécuter par application de cette Convention un jugement rendu dans un État tiers qui est partie à cette Convention contre une personne qui a son domicile ou sa résidence habituelle au Canada.

2. Pour l'application du paragraphe (1)

- a) une personne n'est considérée comme ayant son domicile au Canada que si elle y réside dans des conditions dont il ressort qu'elle a avec le Canada un lien étroit; et
- b) une société ou une association n'est considérée comme ayant son domicile au Canada que si elle est constituée ou formée en vertu d'une loi en vigueur au Canada et y a un siège social, ou si le siège de sa direction et de son contrôle se trouve au Canada.

PARTIE VII

DISPOSITIONS FINALES

ARTICLE X

La présente Convention ne déroge pas aux conventions, aux instruments internationaux ou aux accords réciproques auxquels les deux États contractants sont ou deviendront parties et qui, dans des matières particulières, règlent la reconnaissance ou l'exécution des jugements.

ARTICLE XI

Either Contracting State may, on the exchange of instruments of ratification or at any time thereafter, declare that it will not apply the Convention to a judgment that imposes a liability which that State is under a treaty obligation toward any other State not to recognise or enforce. Any such declaration shall specify the treaty containing the obligation.

ARTICLE XII

1. On the exchange of instruments of ratification, Canada shall designate the provinces or territories to which this Convention shall extend and the courts of the provinces and territories concerned to which application for the registration of a judgment given by a court of the United Kingdom may be made.

2. The designation by Canada may be modified by a further designation given at any time thereafter.

3. Any designation shall take effect three months after the date on which it is given.

ARTICLE XIII

1. The United Kingdom may at any time while this Convention is in force declare that this Convention shall extend to the Isle of Man, any of the Channel Islands, Gibraltar or the Sovereign Base Areas of Akrotiri and Dhekelia (being territories to which the 1968 Convention may be applied pursuant to Article 60 of that Convention).

2. Any declaration pursuant to paragraph (1) shall specify the courts of the territories to which application for the registration of a judgment given by a court of Canada shall be made.

3. Any declaration made by the United Kingdom pursuant to this Article may be modified by a further declaration given at any time thereafter.

4. Any declaration pursuant to this Article shall take effect three months after the date on which it is given.

ARTICLE XIV

1. This Convention shall be ratified; instruments of ratification shall be exchanged at London.

2. This Convention shall enter into force three months after the date on which instruments of ratification are exchanged.

3. This Convention may be terminated by notice in writing by either Contracting State and it shall terminate three months after the date of such notice.

ARTICLE XI

Chaque État contractant peut, au moment de l'échange des instruments de ratification ou à tout moment ultérieur, déclarer qu'il n'appliquera pas la Convention à un jugement qui impose une responsabilité que cet État ne peut pas, en vertu d'une obligation conventionnelle envers un autre État, reconnaître ou exécuter. Toute déclaration à cet effet doit faire mention du traité concerné.

ARTICLE XII

1. Au moment de l'échange des instruments de ratification, le Canada désignera les provinces ou territoires auxquels la présente Convention s'étendra ainsi que les tribunaux des provinces et des territoires auxquels peut être soumise une demande en vue de l'enregistrement d'un jugement rendu par un tribunal du Royaume-Uni.

2. Le Canada pourra, à tout moment ultérieur, modifier cette désignation.

3. Toute désignation prend effet trois mois après la date où elle est intervenue.

ARTICLE XIII

1. Le Royaume-Uni peut, à tout moment au cours de la présente Convention, déclarer qu'elle s'étend à l'île de Man, à l'une des îles anglo-normandes, à Gibraltar ou aux zones de souveraineté d'Akrotiri et de Dhekelia, (territoires auxquels la Convention de 1968 peut s'appliquer en vertu de l'article 60 de cette Convention).

2. Toute déclaration en vertu du paragraphe (1) doit préciser les tribunaux des territoires auxquels peut être soumise une demande en vue de l'enregistrement d'un jugement rendu par un tribunal du Canada.

3. Toute déclaration du Royaume-Uni en vertu du présent article peut être modifiée à tout moment ultérieur par une déclaration subséquente.

4. Toute déclaration en vertu du présent article prendra effet trois mois après la date où elle est intervenue.

ARTICLE XIV

1. La présente Convention sera ratifiée; les instruments de ratification seront échangés à Londres.

2. La présente Convention prendra effet trois mois après la date de l'échange des instruments de ratification.

3. Il peut être mis fin à la présente Convention au moyen d'un avis écrit de l'un des États contractants, et elle prendra fin trois mois à compter de la date de cet avis.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Ottawa, this 24th day of April 1984 in the English and French languages, each version being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé la présente Convention.

FAIT en double exemplaire à Ottawa, ce 24^e jour d'avril 1984 dans les langues française et anglaise, chaque version faisant également foi.

For the Government of Canada

Pour le Gouvernement du Canada

John C. Tait

For the Government of the United Kingdom of Great Britain and Northern Ireland

Pour le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

R. H. Baker

Bill 65

*(Chapter 24
Statutes of Ontario, 1984)*

**An Act respecting a Convention between
Canada and the United Kingdom of Great Britain
and Northern Ireland providing for
the Reciprocal Recognition and Enforcement of
Judgments in Civil and Commercial Matters**

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	May 11th, 1984
<i>2nd Reading</i>	June 7th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 65

1984

**An Act respecting a Convention between
Canada and the United Kingdom of Great Britain
and Northern Ireland providing for
the Reciprocal Recognition and Enforcement of
Judgments in Civil and Commercial Matters**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “convention” means the Convention for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters set out in the Schedule hereto. Interpretation

2. The Attorney General shall,

(a) request the Government of Canada to designate Ontario as a province to which the convention extends; and

Designation
of Ontario
and Ontario
courts

(b) determine the courts in Ontario to which application for registration of a judgment given by a court of the United Kingdom may be made and request the Government of Canada to designate those courts for the purpose of the convention.

3. On, from and after the date the convention enters into force in respect of Ontario as determined by the convention, the convention is in force in Ontario and the provisions thereof are law in Ontario. Convention
in force
in Ontario

4. The Attorney General shall cause to be published in *The Ontario Gazette* the date the convention is executed, the date the convention comes into force in Ontario and the courts to which application for registration of a judgment given by a court of the United Kingdom may be made. Publication
of date and
courts

5. The Lieutenant Governor in Council may make such regulations as are necessary to carry out the intent and purpose of this Act. Regulations

This Act
prevails

6. Where there is a conflict between this Act and any other Act or any regulation or rule of court made thereunder, this Act prevails.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Reciprocal Enforcement of Judgments (U.K.) Act, 1984*.

SCHEDULE

CONVENTION BETWEEN CANADA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND PROVIDING FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

Canada,

and

The United Kingdom of Great Britain and Northern Ireland,

DESIRING to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil and commercial matters;

HAVE AGREED AS FOLLOWS:

PART I

DEFINITIONS

ARTICLE I

In this Convention

- (a) “appeal” includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;
- (b) “the 1968 Convention” means the Convention of 27th September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as amended;
- (c) “court of a Contracting State” means
 - (i) in relation to the United Kingdom, any court of the United Kingdom or of any territory to which this Convention extends pursuant to Article XIII,
 - (ii) in relation to Canada, the Federal Court of Canada or any court of a province or territory to which this Convention extends pursuant to Article XII,

ANNEXE

CONVENTION ENTRE LE CANADA ET LE ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD POUR ASSURER LA RECONNAISSANCE ET L'EXÉCUTION RÉCIPROQUES DES JUGEMENTS EN MATIÈRE CIVILE ET COMMERCIALE

Le Canada,

et

Le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord,

DÉSIRANT pourvoir sur une base de réciprocité à la reconnaissance et
l'exécution des jugements en matière civile et commerciale,

SONT CONVENUS DES DISPOSITIONS SUIVANTES :

PARTIE I

DÉFINITIONS

ARTICLE I

Dans la présente Convention

- a) "appel" s'entend entre autres de toute procédure tendant à faire annuler un jugement ou d'une demande en vue d'obtenir un nouveau procès ou une ordonnance de surseoir à l'exécution d'un jugement;
- b) "la Convention de 1968" désigne la Convention du 27 septembre 1968 concernant la compétence judiciaire et l'exécution des décisions en matière civile et commerciale, ainsi que ses modifications;
- c) "jugement" désigne toute décision, quelle que soit son appellation (jugement, arrêt, ordonnance, etc.), rendue par un tribunal en matière civile ou commerciale, et s'entend entre autres de la sentence arbitrale qui est devenue exécutoire sur le territoire d'origine de la même manière qu'un jugement rendu par un tribunal de ce territoire;

and the expressions "court of the United Kingdom" and "court of Canada" shall be construed accordingly;

- (d) "judgment" means any decision, however described (judgment, order and the like), given by a court in a civil or commercial matter, and includes an award in proceedings on an arbitration if the award has become enforceable in the territory of origin in the same manner as a judgment given by a court in that territory;
- (e) "judgment creditor" means the person in whose favour the judgment was given, and includes his executors, administrators, successors and assigns;
- (f) "judgment debtor" means the person against whom the judgment was given and includes any person against whom the judgment is enforceable under the law of the territory of origin;
- (g) "original court" in relation to any judgment means the court by which the judgment was given;
- (h) "registering court" means a court to which an application for the registration of a judgment is made;
- (i) "territory of origin" means the territory for which the original court was exercising jurisdiction.

PART II

SCOPE OF THE CONVENTION

ARTICLE II

1. Subject to the provisions of this Article, this Convention shall apply to any judgment given by a court of a Contracting State after the Convention enters into force and, for the purposes of Article IX, to any judgment given by a court of a third State which is party to the 1968 Convention.

2. This Convention shall not apply to

- (a) orders for the periodic payment of maintenance;
- (b) the recovery of taxes, duties or charges of a like nature or the recovery of a fine or penalty;
- (c) judgments given on appeal from decisions of tribunals other than courts;

- d) “partie gagnante” désigne toute personne au profit de laquelle le jugement a été rendu, et s’entend entre autres de ses exécuteurs, de ses administrateurs, de ses héritiers et de ses ayants cause;
- e) “partie perdante” désigne toute personne contre laquelle le jugement a été rendu, et s’entend entre autres de toute personne contre laquelle le jugement peut être exécuté en vertu de la loi du territoire d’origine;
- f) “territoire d’origine” désigne le territoire sur lequel le tribunal d’origine exerçait sa compétence;
- g) “tribunal d’origine” en ce qui concerne tout jugement désigne le tribunal qui a rendu le jugement;
- h) “tribunal de l’enregistrement” désigne le tribunal auquel est soumise une demande d’enregistrement d’un jugement;
- i) “tribunal d’un État contractant” désigne :
 - (i) en ce qui concerne le Royaume-Uni, tout tribunal du Royaume-Uni ou de tout territoire auquel la présente Convention s’étend par l’application de l’article XIII;
 - (ii) en ce qui concerne le Canada, la Cour fédérale du Canada ou tout autre tribunal d’une province ou d’un territoire auquel la présente Convention s’étend par application de l’article XII,

et les expressions “tribunal du Royaume-Uni” et “tribunal du Canada” s’interprètent en conséquence.

PARTIE II

CHAMP D’APPLICATION DE LA CONVENTION

ARTICLE II

1. Sous réserve des dispositions du présent article, la présente Convention s’applique à tout jugement rendu par un tribunal d’un État contractant après l’entrée en vigueur de la Convention et, aux fins de l’article IX, à tout jugement rendu par un tribunal d’un État tiers qui est partie à la Convention de 1968.

2. La présente Convention ne s’applique pas

- a) aux ordonnances relatives au versement périodique d’une obligation alimentaire;
- b) à la perception d’impôts, de droits ou d’autres taxes semblables ni à la perception d’une amende;
- c) aux jugements rendus sur appel des décisions des tribunaux qui ne sont pas des tribunaux judiciaires;

(d) judgments which determine

- (i) the status or legal capacity of natural persons;
- (ii) custody or guardianship of infants;
- (iii) matrimonial matters;
- (iv) succession to or the administration of the estates of deceased persons;
- (v) bankruptcy, insolvency or the winding up of companies or other legal persons;
- (vi) the management of the affairs of a person not capable of managing his own affairs.

3. Part III of this Convention shall apply only to a judgment whereby a sum of money is made payable.

4. This Convention is without prejudice to any other remedy available to a judgment creditor for the recognition and enforcement in one Contracting State of a judgment given by a court of the other Contracting State.

PART III

ENFORCEMENT OF JUDGMENTS

ARTICLE III

1. Where a judgment has been given by a court of one Contracting State, the judgment creditor may apply in accordance with Article VI to a court of the other Contracting State at any time within a period of six years after the date of the judgment (or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings) to have the judgment registered, and on any such application the registering court shall, subject to such simple and rapid procedures as each Contracting State may prescribe and to the other provisions of this Convention, order the judgment to be registered.

2. In addition to the sum of money payable under the judgment of the original court including interest accrued to the date of registration, the judgment shall be registered for the reasonable costs of and incidental to registration, if any, including the costs of obtaining a certified copy of the judgment from the original court.

3. If, on an application for the registration of a judgment, it appears to the registering court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

d) aux jugements qui statuent

- (i) en matière d'état ou de capacité juridique des personnes physiques;
- (ii) en matière de garde ou de tutelle des enfants;
- (iii) en matière matrimoniale;
- (iv) en matière successorale;
- (v) en matière de faillite, d'insolvabilité ou de liquidation de sociétés ou autres personnes morales;
- (vi) en matière d'administration des affaires d'une personne incapable d'administrer ses propres affaires.

3. La Partie III de la présente Convention ne s'applique qu'aux jugements condamnant au paiement d'une somme d'argent.

4. La présente Convention ne porte pas atteinte aux autres recours que possède la partie gagnante afin de faire reconnaître et exécuter dans un État contractant un jugement rendu par un tribunal de l'autre État contractant.

PARTIE III

EXÉCUTION DES JUGEMENTS

ARTICLE III

1. Lorsqu'un jugement a été rendu par un tribunal d'un État contractant, la partie gagnante peut demander, conformément aux dispositions de l'article VI, l'enregistrement de ce jugement à un tribunal de l'autre État contractant à tout moment dans les six ans de la date du jugement (ou, s'il y a eu appel, dans les six ans de la date du dernier jugement rendu dans cette affaire). Le tribunal de l'enregistrement ordonne, sous réserve des procédures simples et rapides qui peuvent être prévues par chaque État contractant et sous réserve des autres dispositions de la présente Convention, que le jugement soit enregistré.

2. En plus de la somme d'argent à payer d'après le jugement du tribunal d'origine, y compris les intérêts échus à la date de l'enregistrement, le jugement accordant l'enregistrement comprend les frais raisonnables d'enregistrement et les frais connexes, s'il y a lieu, y compris les frais d'obtention d'une copie certifiée conforme du jugement du tribunal d'origine.

3. Dans le cas où, lors d'une demande d'enregistrement d'un jugement, il apparaît au tribunal de l'enregistrement que ce jugement porte sur diverses questions et que certaines, mais pas toutes, des dispositions du jugement sont telles que, si elles avaient été contenues dans des jugements distincts, ces jugements auraient pu être dûment enregistrés, l'enregistrement peut être accordé à l'égard des dispositions susmentionnées mais non pas à l'égard des autres.

4. Subject to the other provisions of this Convention

- (a) a registered judgment shall, for the purposes of enforcement, be of the same force and effect;
- (b) proceedings may be taken on it; and
- (c) the registering court shall have the same control over its enforcement,

as if it had been a judgment originally given in the registering court with effect from the date of registration.

ARTICLE IV

1. Registration of a judgment shall be refused or set aside if

- (a) the judgment has been satisfied;
- (b) the judgment is not enforceable in the territory of origin;
- (c) the original court is not regarded by the registering court as having jurisdiction;
- (d) the judgment was obtained by fraud;
- (e) enforcement of the judgment would be contrary to public policy in the territory of the registering court;
- (f) the judgment is a judgment of a country or territory other than the territory of origin which has been registered in the original court or has become enforceable in the territory of origin in the same manner as a judgment of that court; or
- (g) in the view of the registering court the judgment debtor either is entitled to immunity from the jurisdiction of that court or was entitled to immunity in the original court and did not submit to its jurisdiction.

2. The law of the registering court may provide that registration of a judgment may or shall be set aside if

- (a) the judgment debtor, being the defendant in the original proceedings, either was not served with the process of the original court or did not receive notice of those proceedings in sufficient time to enable him to defend the proceedings and, in either case, did not appear;
- (b) another judgment has been given by a court having jurisdiction in the matter in dispute prior to the date of judgment in the original court; or
- (c) the judgment is not final or an appeal is pending or the judgment debtor is entitled to appeal or to apply for leave to appeal against the judgment in the territory of origin.

4. Sous réserve des autres dispositions de la présente Convention

- a) le jugement enregistré a, pour les fins de son exécution, la même force et les mêmes effets;
- b) il pourra faire l'objet de procédures; et
- c) le tribunal de l'enregistrement exerce le même contrôle sur son exécution,

comme s'il s'agissait d'un jugement qui avait été rendu initialement par le tribunal de l'enregistrement et était en vigueur depuis la date de son enregistrement.

ARTICLE IV

1. L'enregistrement d'un jugement doit être refusé ou annulé

- a) si les obligations pécuniaires résultant du jugement sont éteintes;
- b) si le jugement n'est pas susceptible d'exécution sur le territoire d'origine;
- c) si le tribunal d'origine n'est pas considéré comme compétent par le tribunal de l'enregistrement;
- d) si le jugement a été obtenu par des manoeuvres frauduleuses;
- e) si l'exécution du jugement serait contraire à l'ordre public dans le territoire du tribunal de l'enregistrement;
- f) s'il s'agit d'un jugement qui émane d'un pays ou d'un territoire autre que le territoire d'origine et a été enregistré au tribunal d'origine ou est devenu exécutoire sur le territoire d'origine de la même manière qu'un jugement rendu par ce tribunal; ou
- g) si, de l'avis du tribunal de l'enregistrement, la partie perdante bénéficie de l'immunité de la juridiction de ce tribunal ou si elle bénéficiait de l'immunité devant le tribunal d'origine et ne s'était pas soumise à la compétence de ce tribunal.

2. La loi du tribunal de l'enregistrement peut rendre obligatoire ou facultative l'annulation de l'enregistrement d'un jugement

- a) si l'acte introductif d'instance émanant du tribunal d'origine n'a pas été signifié à la partie perdante, défenderesse lors de la poursuite initiale, ou que cette partie n'a pas été informée de l'action intentée en temps utile pour lui permettre de présenter une défense et, dans l'un ou l'autre cas, n'a pas comparu;
- b) si un autre jugement a été rendu par un tribunal compétent à l'égard du litige avant la date du jugement rendu par le tribunal d'origine; ou
- c) lorsqu'il ne s'agit pas d'un jugement final, ou lorsqu'un appel est pendant ou que la partie perdante a droit d'en appeler ou de demander l'autorisation d'en appeler à l'encontre du jugement dans le territoire d'origine.

3. If at the date of the application for registration the judgment of the original court has been partly satisfied, the judgment shall be registered only in respect of the balance remaining payable at that date.

4. A judgment shall not be enforced so long as, in accordance with the provisions of this Convention and the law of the registering court, it is competent for any party to make an application to have the registration of the judgment set aside or, where such an application is made, until the application has been finally determined.

ARTICLE V

1. For the purposes of Article IV (1) (c) the original court shall be regarded as having jurisdiction if

- (a) the judgment debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings;
- (b) the judgment debtor was plaintiff in, or counterclaimed in, the proceedings in the original court;
- (c) the judgment debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the territory of origin;
- (d) the judgment debtor, being a defendant in the original court, was at the time when the proceedings were instituted habitually resident in, or being a body corporate had its principal place of business in, the territory of origin;
- (e) the judgment debtor, being a defendant in the original court, had an office or place of business in the territory of origin and the proceedings were in respect of a transaction effected through or at that office or place; or
- (f) the jurisdiction of the original court is otherwise recognised by the registering court.

2. Notwithstanding anything in sub-paragraphs (d), (e) and (f) of paragraph (1), the original court shall not be regarded as having jurisdiction if

- (a) the subject matter of the proceedings was immovable property outside the territory of origin; or
- (b) the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the territory of origin.

3. Si, au moment de la demande d'enregistrement, les obligations résultant du jugement rendu par le tribunal d'origine sont partiellement éteintes, le jugement ne sera enregistré qu'à l'égard des sommes encore dues à cette date.

4. Un jugement n'est pas exécuté tant que, conformément aux dispositions de la présente Convention et de la loi du tribunal de l'enregistrement, l'une des parties peut demander que l'enregistrement du jugement soit annulé, ou tant qu'une demande de ce genre n'aura pas été réglée définitivement.

ARTICLE V

1. Aux fins d'application de l'article IV 1) c), le tribunal d'origine est considéré comme compétent

- a) si la partie perdante, défenderesse devant le tribunal d'origine, s'est soumise à la compétence de ce tribunal en comparissant volontairement;
- b) si la partie perdante était demanderesse principale ou reconventionnelle devant le tribunal d'origine;
- c) si, avant que l'action ne soit entamée, la partie perdante, défenderesse devant le tribunal d'origine, s'est soumise, en ce qui concerne l'objet de la contestation, à la compétence de ce tribunal ou des tribunaux du territoire d'origine;
- d) si la partie perdante défenderesse devant le tribunal d'origine avait, au moment où l'action a été intentée, une résidence habituelle sur le territoire d'origine, ou dans le cas d'une société, lorsqu'elle y avait sa principale place d'affaires;
- e) si la partie perdante, défenderesse devant le tribunal d'origine, avait sur le territoire d'origine soit une succursale, soit une place d'affaires, et que la contestation concernait une affaire traitée à cette succursale ou cette place d'affaires; ou
- f) si la compétence du tribunal d'origine est autrement admise par le tribunal de l'enregistrement.

2. Nonobstant les dispositions des alinéas d), e) et f) du paragraphe (1), le tribunal d'origine n'est pas considéré comme compétent

- a) si l'objet de la contestation était un immeuble non situé sur le territoire d'origine; ou
- b) si l'action a été entamée devant le tribunal d'origine contrairement à un engagement spécifiant que cette contestation devait être réglée autrement que par une action devant les tribunaux du territoire d'origine.

PART IV

PROCEDURES

ARTICLE VI

1. Any application for the registration in the United Kingdom of a judgment of a court of Canada shall be made

- (a) in England and Wales, to the High Court of Justice;
- (b) in Scotland, to the Court of Session;
- (c) in Northern Ireland, to the High Court of Justice.

2. Any application for the registration in Canada of a judgment of a court of the United Kingdom shall be made

- (a) in the case of a judgment relating to a matter within the competence of the Federal Court of Canada, to the Federal Court of Canada;
- (b) in the case of any other judgment, to a court of a province or territory designated by Canada pursuant to Article XII.

3. The practice and procedure governing registration (including notice to the judgment debtor and applications to set registration aside) shall, except as otherwise provided in this Convention, be governed by the law of the registering court.

4. The registering court may require that an application for registration be accompanied by

- (a) the judgment of the original court or a certified copy thereof;
- (b) a certified translation of the judgment, if given in a language other than the language of the territory of the registering court;
- (c) proof of the notice given to the defendant in the original proceedings, unless this appears from the judgment; and
- (d) particulars of such other matters as may be required by the rules of the registering court.

ARTICLE VII

All matters concerning

- (a) the conversion of the sum payable under a registered judgment into the currency of the territory of the registering court; and
- (b) the interest payable on the judgment with respect to the period following its registration,

shall be determined by the law of the registering court.

PARTIE IV

PROCÉDURE

ARTICLE VI

1. Toute demande d'enregistrement dans le Royaume-Uni d'un jugement émanant d'un tribunal du Canada doit être présentée

- a) pour l'Angleterre et le pays de Galles, à la "High Court of Justice";
- b) pour l'Écosse, à la "Court of Session";
- c) pour l'Irlande du Nord, à la "High Court of Justice".

2. Toute demande d'enregistrement au Canada d'un jugement émanant d'un tribunal du Royaume-Uni doit être présentée

- a) dans le cas d'un jugement ayant trait à une matière relevant de la compétence de la Cour fédérale du Canada, à cette Cour;
- b) dans le cas de tout autre jugement, au tribunal d'une province ou d'un territoire déterminé par le Canada par application de l'article XII.

3. Sauf stipulations contraires de la présente Convention, l'usage et la procédure régissant l'enregistrement (notamment l'avis à la partie perdante et les demandes pour faire annuler l'enregistrement) sont réglés par la loi du tribunal de l'enregistrement.

4. Le tribunal de l'enregistrement peut exiger que la demande d'enregistrement soit accompagnée

- a) du jugement du tribunal d'origine ou d'une copie certifiée conforme;
- b) d'une traduction certifiée conforme du jugement, s'il a été rendu dans une autre langue que celle du territoire du tribunal de l'enregistrement;
- c) d'un document prouvant que le défendeur devant le tribunal d'origine a été informé de l'action intentée contre lui, à moins que cela ne s'infère du jugement; et
- d) de toute autre indication que peuvent exiger les règles de pratique du tribunal de l'enregistrement.

ARTICLE VII

La loi du tribunal de l'enregistrement détermine les questions relatives

- a) à la conversion, dans la monnaie du territoire du tribunal de l'enregistrement, de la somme d'argent à payer d'après le jugement enregistré; et
- b) à l'intérêt dû à compter de la date de l'enregistrement du jugement.

PART V

RECOGNITION OF JUDGMENTS

ARTICLE VIII

Any judgment given by a court of one Contracting State for the payment of a sum of money which could be registered under this Convention, whether or not the judgment has been registered, and any other judgment given by such a court, which if it were a judgment for the payment of a sum of money could be registered under this Convention, shall, unless registration has been or would be refused or set aside on any ground other than that the judgment has been satisfied or could not be enforced in the territory of origin, be recognised in a court of the other Contracting State as conclusive between the parties thereto in all proceedings founded on the same cause of action.

PART VI

RECOGNITION AND ENFORCEMENT OF THIRD
STATE JUDGMENTS

ARTICLE IX

1. The United Kingdom undertakes, in the circumstances permitted by Article 59 of the 1968 Convention, not to recognise or enforce under that Convention any judgment given in a third State which is a Party to that Convention against a person domiciled or habitually resident in Canada.

2. For the purposes of paragraph (1)

- (a) an individual shall be treated as domiciled in Canada if and only if he is resident in Canada and the nature and circumstances of his residence indicate that he has a substantial connection with Canada; and
- (b) a corporation or association shall be treated as domiciled in Canada if and only if it is incorporated or formed under a law in force in Canada and has a registered office there, or its central management and control is exercised in Canada.

PART VII

FINAL PROVISIONS

ARTICLE X

This Convention shall not affect any conventions, international instruments or reciprocal arrangements to which both Contracting States are or will be parties and which, in relation to particular matters, govern the recognition or enforcement of judgments.

PARTIE V

RECONNAISSANCE DES JUGEMENTS

ARTICLE VIII

Le jugement rendu par un tribunal d'un État contractant condamnant au paiement d'une somme d'argent qui pourrait être enregistré sous le régime de la présente Convention, qu'il ait été enregistré ou non, ou tout autre jugement rendu par un tel tribunal qui, s'il s'agissait d'un jugement condamnant au paiement d'une somme d'argent, pourrait être enregistré sous le régime de la présente Convention, sera reconnu par le tribunal de l'autre État contractant comme ayant l'autorité de la chose jugée entre les parties dans toute action intentée sur le même objet et pour la même cause, à moins que l'enregistrement n'ait été ou ne puisse être refusé ou annulé pour tout autre motif que celui selon lequel les obligations résultant du jugement sont éteintes ou ne pourraient pas être exécutées sur le territoire d'origine.

PARTIE VI

RECONNAISSANCE ET EXÉCUTION DES
JUGEMENTS D'UN ÉTAT TIERS

ARTICLE IX

1. Le Royaume-Uni s'engage, dans les cas prévus par l'article 59 de la Convention de 1968, à ne pas reconnaître ou exécuter par application de cette Convention un jugement rendu dans un État tiers qui est partie à cette Convention contre une personne qui a son domicile ou sa résidence habituelle au Canada.

2. Pour l'application du paragraphe (1)

- a) une personne n'est considérée comme ayant son domicile au Canada que si elle y réside dans des conditions dont il ressort qu'elle a avec le Canada un lien étroit; et
- b) une société ou une association n'est considérée comme ayant son domicile au Canada que si elle est constituée ou formée en vertu d'une loi en vigueur au Canada et y a un siège social, ou si le siège de sa direction et de son contrôle se trouve au Canada.

PARTIE VII

DISPOSITIONS FINALES

ARTICLE X

La présente Convention ne déroge pas aux conventions, aux instruments internationaux ou aux accords réciproques auxquels les deux États contractants sont ou deviendront parties et qui, dans des matières particulières, règlent la reconnaissance ou l'exécution des jugements.

ARTICLE XI

Either Contracting State may, on the exchange of instruments of ratification or at any time thereafter, declare that it will not apply the Convention to a judgment that imposes a liability which that State is under a treaty obligation toward any other State not to recognise or enforce. Any such declaration shall specify the treaty containing the obligation.

ARTICLE XII

1. On the exchange of instruments of ratification, Canada shall designate the provinces or territories to which this Convention shall extend and the courts of the provinces and territories concerned to which application for the registration of a judgment given by a court of the United Kingdom may be made.

2. The designation by Canada may be modified by a further designation given at any time thereafter.

3. Any designation shall take effect three months after the date on which it is given.

ARTICLE XIII

1. The United Kingdom may at any time while this Convention is in force declare that this Convention shall extend to the Isle of Man, any of the Channel Islands, Gibraltar or the Sovereign Base Areas of Akrotiri and Dhekelia (being territories to which the 1968 Convention may be applied pursuant to Article 60 of that Convention).

2. Any declaration pursuant to paragraph (1) shall specify the courts of the territories to which application for the registration of a judgment given by a court of Canada shall be made.

3. Any declaration made by the United Kingdom pursuant to this Article may be modified by a further declaration given at any time thereafter.

4. Any declaration pursuant to this Article shall take effect three months after the date on which it is given.

ARTICLE XIV

1. This Convention shall be ratified; instruments of ratification shall be exchanged at London.

2. This Convention shall enter into force three months after the date on which instruments of ratification are exchanged.

3. This Convention may be terminated by notice in writing by either Contracting State and it shall terminate three months after the date of such notice.

ARTICLE XI

Chaque État contractant peut, au moment de l'échange des instruments de ratification ou à tout moment ultérieur, déclarer qu'il n'appliquera pas la Convention à un jugement qui impose une responsabilité que cet État ne peut pas, en vertu d'une obligation conventionnelle envers un autre État, reconnaître ou exécuter. Toute déclaration à cet effet doit faire mention du traité concerné.

ARTICLE XII

1. Au moment de l'échange des instruments de ratification, le Canada désignera les provinces ou territoires auxquels la présente Convention s'étendra ainsi que les tribunaux des provinces et des territoires auxquels peut être soumise une demande en vue de l'enregistrement d'un jugement rendu par un tribunal du Royaume-Uni.

2. Le Canada pourra, à tout moment ultérieur, modifier cette désignation.

3. Toute désignation prend effet trois mois après la date où elle est intervenue.

ARTICLE XIII

1. Le Royaume-Uni peut, à tout moment au cours de la présente Convention, déclarer qu'elle s'étend à l'île de Man, à l'une des îles anglo-normandes, à Gibraltar ou aux zones de souveraineté d'Akrotiri et de Dhekelia, (territoires auxquels la Convention de 1968 peut s'appliquer en vertu de l'article 60 de cette Convention).

2. Toute déclaration en vertu du paragraphe (1) doit préciser les tribunaux des territoires auxquels peut être soumise une demande en vue de l'enregistrement d'un jugement rendu par un tribunal du Canada.

3. Toute déclaration du Royaume-Uni en vertu du présent article peut être modifiée à tout moment ultérieur par une déclaration subséquente.

4. Toute déclaration en vertu du présent article prendra effet trois mois après la date où elle est intervenue.

ARTICLE XIV

1. La présente Convention sera ratifiée; les instruments de ratification seront échangés à Londres.

2. La présente Convention prendra effet trois mois après la date de l'échange des instruments de ratification.

3. Il peut être mis fin à la présente Convention au moyen d'un avis écrit de l'un des États contractants, et elle prendra fin trois mois à compter de la date de cet avis.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Ottawa, this 24th day of April 1984 in the English and French languages, each version being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé la présente Convention.

FAIT en double exemplaire à Ottawa, ce 24^e jour d'avril 1984 dans les langues française et anglaise, chaque version faisant également foi.

For the Government of Canada

Pour le Gouvernement du Canada

John C. Tait

For the Government of the United Kingdom of Great Britain and Northern Ireland

Pour le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

R. H. Baker

Bill 66

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

The Hon. R. G. Elgie

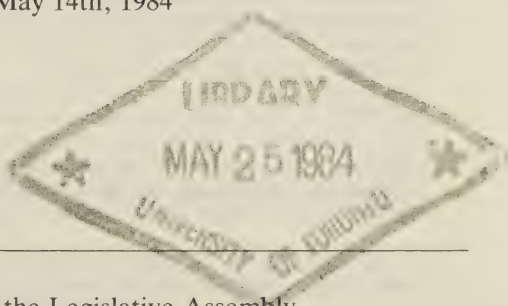
Minister of Consumer and Commercial Relations

1st Reading May 14th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

The Bill, intended to facilitate the wider use of modern information technology in Ontario's land registration systems, is designed to take effect across the province in stages.

Part I (Documents) will apply to the parts of Ontario designated by regulation. Its provisions deal primarily with the form and execution of conveyancing documents and are capable of functioning in registry offices which are not automated. Users will be required to employ simplified standard forms from which all affidavits and all seals (except corporate seals) have been eliminated. A scheme allowing the registration of short form mortgages, incorporating standard terms which will be on file but not repeated in each mortgage document, is included.

Part II (Automated Recording and Property Mapping) authorizes the further designation of areas to which Part I already applies, as areas in which automated recording and property mapping systems will be employed.

Part III contains amendments to nine related statutes.

Part I (DOCUMENTS)

SECTION 1. Self-explanatory.

SECTION 2. Part I is to apply to conveyancing documents that affect land in the areas designated by regulation.

SECTION 3. Conveyancing documents, to qualify for registration under the *Registry Act* or the *Land Titles Act*, or deposit under the *Registry Act*, must comply with Part I and the regulations. However, documents executed before the relevant area was brought under Part I are exempted from this requirement, and the Director of Land Registration and District Court judges are also empowered to permit the registration or deposit of documents which do not satisfy the requirements of Part I and the regulations. Non-compliance with the registration requirements of Part I and the regulations does not invalidate a document once registered or deposited.

SECTION 4. Documents which do not satisfy the formal requirements of Part I and the regulations may be registered if they are attached to documents which do satisfy those requirements. (See also clause 3 (1) (b) of the Bill.)

SECTION 5. The traditional four covenants and release and various covenants for specific situations, currently deemed to be included in deeds and transfers by virtue of section 23 of the *Conveyancing and Law of Property Act* and the *Short Forms of Conveyances Act*, are repeated in more modern language and deemed to be included in transfers to which Part I applies.

SECTION 6. Mortgages of *Registry Act* land (unlike mortgages of *Land Titles Act* land) currently operate as conveyances of the legal estate in the land to the mortgagee, the mortgagor retaining only the equity of redemption. Section 6 eliminates this concept from mortgages of land to which Part I applies, while preserving all the rights and remedies enjoyed by mortgagors and mortgagees.

SECTION 7. The traditional covenants currently deemed to be included in mortgages by virtue of sections 7 and 8 of the *Mortgages Act* and the *Short Forms of Mortgages Act*, adjusted to take account of the amendment made by section 6 of the Bill, are repeated in more modern language and deemed to be included in mortgages (referred to throughout the Bill as "charges") to which Part I applies.

A mortgage in the prescribed form is deemed to include any standard mortgage terms that are prescribed by regulation, unless they are specifically excluded or the short

form scheme is used (see explanatory note for sections 8 to 12 of the Bill). This will permit the adoption of basic uniform mortgage terms in routine transactions.

SECTIONS 8 to 12. These sections create a scheme for the registration of short form mortgages. A lender who has filed a set of standard mortgage terms with the Director may register short form mortgages which incorporate the standard mortgage terms by referring to the set's filing number. Provision is made for the variation of terms in individual short form mortgages. A lender who wishes to make general amendments to the standard mortgage terms must file a new set of terms.

Lenders are required to provide copies of their standard mortgage terms to borrowers before a mortgage is executed.

The Director may require lenders to file standard mortgage terms that they use frequently and to register short form rather than long form mortgages.

SECTION 13. Parties executing conveyancing documents will no longer be required to do so under seal.

SECTION 14. Self-explanatory.

Part II (AUTOMATED RECORDING AND PROPERTY MAPPING)

SECTION 15. Areas to which Part I applies may be further designated by regulation as areas in which automated recording and property mapping systems will be employed.

SECTION 16. During the first three months of experience with the automated system in a particular area, registration and search fees may be reduced temporarily by the Director of Land Registration without the necessity of amending the general fee regulations made under the *Land Titles Act* and the *Registry Act*.

Part III (AMENDMENTS TO STATUTE LAW)

SECTION 17. *Conveyancing and Law of Property Act*

Subsections 1 and 2. References to a receipt for consideration money in sections 6 and 7 of the Act are replaced by references to a statement of consideration money, because the form of transfer contemplated by Part I of the Bill will contain a recital of the consideration rather than a receipt as such.

Subsection 3. Conveyances of land in parts of Ontario subject to Part I of the Bill will include the implied covenants found in section 5 of the Bill, making subsections 23 (1), (2), (3) and (4) of the *Conveyancing and Law of Property Act* superfluous.

SECTION 18. *Family Law Reform Act*

Subsection 1. In areas subject to Part I of the Bill, a statement by a person conveying or charging land will be acceptable as an alternative to the affidavit contemplated by subsection 42 (3) of the *Family Law Reform Act*.

The revised wording of the subsection clarifies that the affidavit (or statement) must be made by the person himself or herself.

Subsection 2. The sanction provided in clause 45 (1) (f) of the Act against giving a false affidavit under subsection 42 (3) is extended to false statements under that subsection.

SECTION 19. *Land Titles Act*

Subsection 1. Self-explanatory.

Subsection 2. A reference to the fee and receiving book is deleted because a land registrar's fee and receiving record will not necessarily be in book form where automated recording is in effect.

Subsection 3. Self-explanatory.

Subsection 4. Users of the automated index are entitled to rely on it.

Subsection 5. Self-explanatory.

Subsections 6 and 7. The broader word "record" is substituted for the word "book" because land registry records will not necessarily be in book form where automated recording is in effect.

Subsection 8. Entries will not be capable of being signed (as existing subsection 81 (3) of the *Land Titles Act* requires) if they are made electronically. The broader concept of certification is used instead.

Subsection 9. The new subsection is complementary to section 13 of the Bill.

Subsection 10. The land registrar may refuse to register instruments that are illegible or unsuitable for microfilming. In the case of land in parts of Ontario subject to Part I of the Bill, the land registrar is also empowered to refuse to register instruments containing irrelevant material, or to refrain from recording any part of a registered instrument that is irrelevant.

Subsection 11. Subsection 93 (5) of the *Land Titles Act* requires the authorization of the parties or their solicitors for the registration of a bond mortgage as a charge on land. Where Part I of the Bill applies bond mortgages will be registered as schedules to the prescribed form of charge, executed by the party giving the charge, and specific authorization for registration will no longer be necessary.

Subsection 12. Charges of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 94, 95, 96 and 97 of the *Land Titles Act* superfluous.

Subsection 13. Transfers of leasehold land in parts of Ontario subject to Part I will include the implied covenants found in section 5 of the Bill, making section 109 of the *Land Titles Act* superfluous.

Subsection 14. Section 141a provides for the establishment and maintenance of the automated recording and property mapping systems contemplated by Part II. These systems will require that records be organized according to property identifiers, and the section also creates a mechanism for the assignment of the identifiers, which will give access to the automated parcel register and to the property maps. Pre-system records may be incorporated into the automated parcel register as the Director instructs.

Section 141b applies to all Part I lands and sets standards for property descriptions.

Subsection 15. Section 147 of the *Land Titles Act* allows land registrars to prepare index plans to facilitate property description. No new index plans will be required for lands that are subject to Part II and organized according to property identifiers.

Subsections 16 and 17. Self-explanatory.

Subsection 18. Land registrars for areas subject to Part I need not retain original documents or records if they retain facsimiles of them, and they may supply facsimiles, copies and certified copies of facsimiles to users.

Subsection 19. This provision is intended to ensure that the output of automated land registry record-keeping systems will be admissible in evidence to the same extent as the

original input, although it may appear in a different form, and to provide that output may also be admitted where there is no original as such.

Subsection 20. References to written alterations are deleted. Because tampering with electronic records is a serious and potentially disruptive offence, especially when committed on a large scale, a separate fine may be imposed for each record affected.

Subsection 21. Subsections 166 (1), (2), (3) and (4) of the *Land Titles Act* deal with addresses for service, a subject which will be covered by regulations under Part I.

SECTION 20. *Mortgages Act*

Subsection 1. Mortgages of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 7 and 8 of the *Mortgages Act* superfluous.

Subsection 2. The proposed section is identical to existing section 6 of the *Short Forms of Mortgages Act*. Since that Act will be consulted less frequently as Part I is extended across the province (see section 25 of the Bill), this provision is, in effect, transferred to the *Mortgages Act*.

SECTION 21. *Planning Act, 1983*

Proposed subsection 49 (21a), applicable throughout Ontario, provides that where a deed or transfer contains prescribed statements by the grantor and lawyers on both sides, any contraventions of the *Planning Act* up to and including the deed or transfer are, in effect, forgiven.

The search of title for *Planning Act* purposes carried out by a grantee's lawyer to support his or her prescribed statement need not go back beyond the most recent set of prescribed statements that are registered.

The Minister of Municipal Affairs and Housing may, by an order that takes effect upon registration, withdraw any land from the application of subsection 49 (21a).

A false statement made under subsection 49 (21a) is an offence punishable by a fine whose maximum level represents the value of the improperly subdivided lands immediately after the subdivision took place.

SECTION 22. *Registry Act*

Subsection 1. Self-explanatory.

Subsection 2. Land registrars for areas subject to Part I of the Bill need not retain original documents or records if they retain facsimiles of them, and they may supply facsimiles, copies and certified copies of facsimiles to users.

Subsection 3. This provision is intended to ensure that the output of automated land registry record-keeping systems will be admissible in evidence to the same extent as the original input, although it may appear in a different form, and that output may also be admitted where there is no original as such.

Subsection 4. The amendment is complementary to the amendment made by subsection 2.

Subsection 5. The deletion of a reference to manual or mechanical reproduction of books is intended to authorize land registrars to use any available copying technology.

Subsections 6 and 7. Land registrars for areas subject to Part I need not retain original record books if they retain facsimiles of them. Ruled-off mortgages are added to the category of instruments which need not be copied when an abstract index is copied.

Subsections 8 and 9. Section 20a provides for the establishment and maintenance of the automated recording and property mapping systems contemplated by Part II. These systems will require that records be organized according to property identifiers, and the section also creates a mechanism for the assignment of the identifiers, which will give access to the automated abstract index and to the property maps. Pre-system records may be incorporated into the automated abstract index as the Director instructs. Subsections 20 (1), (2) and (3) of the *Registry Act* relate to the non-automated abstract index and will not apply to land in parts of Ontario subject to Part II.

Subsection 10. A reference to the registration requirements of Part I and the regulations made under it is added.

Subsection 11. The land registrar may refuse to register instruments that are illegible or unsuitable for microfilming. In the case of land in parts of Ontario subject to Part I of the Bill, the land registrar is also empowered to refuse to register instruments containing irrelevant material, or to refrain from recording any part of a registered instrument that is irrelevant.

Subsections 12 and 13. Property description requirements for instruments affecting land in parts of Ontario subject to Part I will be somewhat different from existing requirements.

Subsection 14. Affidavits of execution will not be required for the registration of instruments affecting land in parts of Ontario subject to Part I.

Subsections 15 and 16. Where a court of record or a corporation executes an instrument affecting land in a part of Ontario subject to Part I, the execution requirements will be somewhat different from existing requirements. Clause 32a (3) (b) reflects the fact that corporations under the *Business Corporations Act, 1982* are not required to have seals.

Subsection 17. Section 37 of the *Registry Act* deals with addresses for service, a subject which will be covered by regulations under Part I.

Subsection 18. Affidavits of age and spousal status will not be required for the registration of instruments affecting land in parts of Ontario subject to Part I. (Equivalent statements will, however, be included in the prescribed conveyancing forms.)

Subsection 19. Throughout Ontario, affidavits and other evidence of compliance with the *Planning Act, 1983* will no longer be required for the registration of instruments.

Subsection 20. Self-explanatory.

Subsection 21. The amendment is intended to facilitate the ruling off of mortgages and instruments relating exclusively to them under subsections 51 (8) and (11) of the *Registry Act*.

Subsections 22 and 23. The amendments are complementary to the amendment to the law of mortgages made by section 6 of the Bill.

Subsection 24. An entry (a broader term than "memorandum", used in the existing section) will not be capable of being signed (as existing subsection 71 (2) requires) if it is made electronically. The broader concept of certification is used instead, and the land registrar is required, before making corrections, to notify persons who may be adversely affected.

Subsection 25. A reference to the plan index book is deleted because that index will not necessarily be in book form where automated recording is in effect.

Subsection 26. Section 77 of the *Registry Act*, dealing with land registrars' compiled plans and new abstract indexes, is revised in a manner that takes account of current practice and will be compatible with Parts I and II.

Subsection 27. In certain circumstances county and district court judges are empowered to cancel plans of subdivision and direct how the affected lands are to be described. It would be inappropriate for this power to extend to altering property identifiers, which are the key for access to the automated parcel register.

Subsection 28. A reference to the fee and receiving book is deleted because a land registrar's fee and receiving record will not necessarily be in book form where automated recording is in effect.

Subsection 29. References to record books, the inspection of certain indexes and the compulsory retention of original documents are deleted.

Subsection 30. References to written alterations are deleted. Because tampering with electronic records is a serious and potentially disruptive offence, especially when committed on a large scale, a separate fine may be imposed for each record affected.

Subsections 31 and 32. Self-explanatory.

Subsections 33 and 34. The forms and property descriptions required for deposits relating to land in parts of Ontario subject to Part I will be somewhat different from existing requirements. Deposits as well as their duplicates are to be endorsed with certificates of deposit.

Subsection 35. New subsection 102 (1a) parallels new section 21a, discussed in the note to subsection 22 (11) of the Bill.

Subsection 36. Users of the automated index are entitled to rely on it.

SECTION 23. *Short Forms of Conveyances Act*

Conveyances of land in parts of Ontario subject to Part I will include the implied covenants found in section 5 of the Bill, making sections 1, 2, 3 and 4 of the *Short Forms of Conveyances Act* superfluous.

SECTION 24. *Short Forms of Mortgages Act*

Existing section 6 is, in effect, transferred to section 38a of the *Mortgages Act* (see explanatory note for subsection 20 (2) of the Bill).

Mortgages of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 1, 2, 3, 4 and 5 of the *Short Forms of Mortgages Act* superfluous.

Bill 66

1984

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

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PART IV (GENERAL)

25. Commencement
26. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

DOCUMENTS

1. In this Part,

Interpretation

- (a) "charge" means a charge on land given for the purpose of securing the payment of a debt or the performance of an obligation, and includes a charge under the *Land Titles Act* and a mortgage, but does not include a rent charge;

R.S.O. 1980,
c. 230

R.S.O. 1980,
c. 445

- (b) “charge book” means the book maintained under subsection 8 (5);
- (c) “chargee” means a person in whose favour a charge is given;
- (d) “chargor” means a person who gives a charge;
- (e) “Director” means the Director of Land Registration appointed under subsection 6 (1) of the *Registry Act*;
- (f) “discharge” means a discharge of a charge and includes a cessation of charge under the *Land Titles Act* and a certificate of discharge of mortgage under the *Registry Act*;
- (g) “document” includes an instrument as defined in clause 1 (f) of the *Registry Act*;
- (h) “land” means land, tenements, hereditaments and appurtenances and any estate or interest therein;
- (i) “land registrar” means a land registrar appointed under the *Land Titles Act* or the *Registry Act*;
- (j) “prescribed” means prescribed by the regulations;
- (k) “regulations” means the regulations made under this Part;
- (l) “successor” means an heir, executor or administrator;
- (m) “transfer” means a conveyance of freehold or leasehold land and includes a deed and a transfer under the *Land Titles Act*, but does not include a lease or a charge;
- (n) “transferee” means a person in whose favour a transfer is given;
- (o) “transferor” means a person who gives a transfer.

Application
of Part

2. This Part applies to documents affecting or relating to land in the parts of Ontario that are designated by regulation.

Form of
documents
R.S.O. 1980,
cc. 230, 445

3.—(1) A document shall not be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, unless,

- (a) its form and manner of completion and execution comply with this Part and the regulations; or
- (b) it is attached to a document whose form and manner of completion and execution comply with this Part and the regulations.

(2) Despite subsection (1), a document that is executed before the day the land it affects or to which it relates is designated under clause 14 (a) may be registered under the *Registry Act* or the *Land Titles Act*, or deposited under Part II of the *Registry Act*, as if this Act had not been passed.

Transitional
R.S.O. 1980,
cc. 445, 230

(3) Failure to comply with subsection (1) does not, in itself, invalidate a document that has been registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, after the coming into force of this section.

Saving

(4) The Director may authorize the registration under the *Land Titles Act* or the *Registry Act*, or the deposit under Part II of the *Registry Act*, of a document whose form or manner of execution does not comply with this Part and the regulations.

Director may
authorize
registration
or deposit

(5) Where the form or manner of execution of a document does not comply with this Part or the regulations, the county or district court of the county or district in which the land that the document affects or to which it relates is situated may, on an application made on notice to the Director, order that the document be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*.

Court may
order
registration
or deposit

(6) An order or refusal to make an order under subsection (5) may be appealed to the Divisional Court by the applicant or by the Director.

Appeal

4.—(1) A document attached as a schedule to a document whose form is prescribed shall be deemed to be part of the document whose form is prescribed.

Incorporation
of schedules

(2) Where there is a conflict between the contents of a document whose form is prescribed and the contents of a document attached to it as a schedule, the document whose form is prescribed prevails.

Prescribed
form
governs

5.—(1) A transfer in the prescribed form shall be deemed to include the following covenants and release by the transferor, for the transferor and the transferor's successors, to and with the transferee and persons deriving title under the transferee:

Transfer:
implied
covenants

Usual
covenants
and release

1. In a transfer of freehold or leasehold land by the beneficial owner for valuable consideration, unless the transfer is expressed to be a quitclaim:
 - i. That the transferor has the right to convey the land to the transferee.
 - ii. That the transferee shall have quiet enjoyment of the land.
 - iii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
 - iv. That the transferor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
 - v. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

Covenant re
leasehold

2. In a transfer of leasehold land by the beneficial owner for valuable consideration:

That, despite anything done, omitted or permitted by the transferor, the lease or grant creating the term or estate for which the land is transferred is, at the time the transfer is given, a valid lease or grant of the property conveyed, in full force, unforfeited and unsundered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the transfer is given.

Covenants
and release
by trustee,
etc.

3. In a transfer of freehold or leasehold land by a transferor who transfers as trustee or chargee, as personal representative of a deceased person, as committee of a mentally incompetent person, or under a court order:
 - i. That the transferor has not done, omitted or permitted anything whereby the land is or

may be encumbered or whereby the transferor is hindered from giving the transfer.

- ii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
- iii. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

- 4. In a transfer of freehold or leasehold land by way of settlement by a transferor who transfers as settlor: Settlor's covenant for further assurances

That the transferor and the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the expense of any person deriving title under the transfer, as may be reasonably required.

- (2) Where a transfer to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made, Multiple parties

- (a) by each transferor to the extent of the interest or share transferred by the transferor; and
- (b) with the transferees jointly, if the transfer is made to them jointly, or with each transferee, if the transfer is made to them as tenants in common.

- (3) Where a transfer to which subsection (1) applies is given at the direction of the beneficial owner, the transfer shall be deemed to include the appropriate covenants set out in subsection (1) on the part of the beneficial owner as if the beneficial owner were the transferor. Covenant by beneficial owner directing transfer

- (4) A covenant deemed to be included in a transfer by this section may, in a schedule to the transfer, be expressly excluded or be varied by setting out the covenant, appropriately amended. Amendment of implied covenants

- (5) The benefit of a covenant deemed to be included in a transfer by this section runs with the interest of the transferee in the land transferred, and may be enforced by any person in whom the interest or part of it vests. Enforcement of covenant

Charge
not a
transfer

6.—(1) A charge does not operate as a transfer of the legal estate in the land to the chargee.

Defeasance

(2) A charge ceases to operate when the money and interest secured by the charge are paid, or the obligations whose performance is secured by the charge are performed, in the manner provided by the charge.

Rights and
remedies
preserved

(3) Despite subsection (1), a chargor and chargee are entitled to all the legal and equitable rights and remedies that would be available to them if the chargor had transferred the land to the chargee by way of mortgage, subject to a proviso for redemption.

Charge:
implied
covenants

7.—(1) A charge in the prescribed form shall be deemed to include the following covenants by the chargor, for the chargor and the chargor's successors, with the chargee and the chargee's successors and assigns:

Usual
covenants

1. In a charge of freehold or leasehold land by the beneficial owner:

i. That the chargor or the chargor's successors will pay, in the manner provided by the charge, the money and interest it secures, and will pay the taxes assessed against the land.

ii. That the chargor has the right to give the charge.

iii. That the chargor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.

iv. That the chargor or the chargor's successors will insure the buildings on the land as specified in the charge.

v. That the chargee on default of payment for the number of days specified in the charge or in the *Mortgages Act*, whichever is longer, may on giving the notice specified in the charge or required by that Act, whichever is longer, enter on and take possession of, receive the rents and profits of, lease or sell the land.

vi. That where the chargee enters on and takes possession of the land on default as described

in subparagraph v, the chargee shall have quiet enjoyment of the land.

- vii. That the chargor or the chargor's successors will, on default, execute such assurances of the land and do such other acts, at the chargee's expense, as may be reasonably required.
 - viii. That the chargee may distrain for arrears of interest.
 - ix. That on default of payment of the interest secured by the charge, the principal money shall, at the option of the chargee, become payable.
- 2. In a charge of freehold land by the beneficial owner, that the chargor has a good title in fee simple to the land, except as the records of the land registry office disclose. Covenant re freehold
 - 3. In a charge of leasehold land by the beneficial owner: Covenant re leasehold
 - i. That, despite anything done, omitted or permitted by the chargor, the lease or grant creating the term or estate for which the land is held is, at the time the charge is given, a valid lease or grant of the land charged, in full force, unforfeited and unsundered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the charge is given.
 - ii. That the chargor or the chargor's successors will, while the moneys secured by the charge remain unpaid, pay, observe and perform all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant and will indemnify the chargee against all costs and damages incurred by reason of any non-payment of rent or non-observance or non-performance of the covenants, conditions and agreements.
- (2) Where a charge to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made, Multiple parties

- (a) by the chargors jointly and severally, unless the charge specifies otherwise; and
- (b) with the chargees jointly, unless the moneys secured are expressly secured to them in several shares or distinct sums.

Amendment
of implied
covenants

(3) A covenant deemed to be included in a charge by subsection (1) may, in a schedule to the charge, or in a set of standard charge terms filed under subsection 8 (1) and referred to in the charge by its filing number, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Enforcement
of covenant

(4) A covenant deemed to be included in a charge by subsection (1) may be enforced by a successor or assignee of the chargee.

Prescribed
terms

(5) A charge in the prescribed form shall be deemed to include the prescribed standard charge terms, unless a set of standard charge terms filed under subsection 8 (1) is referred to in the charge by its filing number.

Amendment
of prescribed
terms

(6) A prescribed standard charge term deemed to be included in a charge by subsection (5) may, in a schedule to the charge, be expressly excluded or be varied by setting out the term, appropriately varied.

Prescribed
terms to be
included in
charge book

(7) The Director shall include the prescribed standard charge terms in the charge book maintained under subsection 8 (5).

Filing of
standard
charge
terms

8.—(1) A person may file with the Director, in the prescribed manner and form, a set of standard charge terms and, with the consent of the Director, may file a set of standard charge terms in a form other than the prescribed form.

Amendment
of set of
standard
charge terms

(2) A set of standard charge terms filed under subsection (1) may be amended by filing a further set of standard charge terms under subsection (1).

Duties of
Director

(3) Where a set of standard charge terms is filed under subsection (1), the Director shall,

- (a) promptly assign a filing number to the set and advise the person who filed the set of its filing number; and
- (b) ensure that copies of the set, identified by its filing number, are provided to the land registry offices for

the parts of Ontario designated under this Part within thirty days of the day on which the set was filed.

(4) Every set of standard charge terms filed under subsection (1) shall be made available in the prescribed manner and at the prescribed fee for public inspection and copying in the land registry offices for the parts of Ontario designated under this Part on a day not later than thirty days after the day on which the set is filed with the Director.

Public
inspection

(5) The Director shall enter all sets of standard charge terms filed under subsection (1) during each calendar year in a charge book and shall as soon as possible after the end of the calendar year,

Annual
charge
book

(a) provide copies of the charge book to the land registry offices for the parts of Ontario designated under this Part; and

(b) make available copies of the charge book for purchase by the public at the prescribed fee.

9.—(1) A charge shall be deemed to include a set of standard charge terms filed under subsection 8 (1) if the set is referred to in the charge by its filing number.

Effect of
filing:
incorporation
by reference

(2) A term deemed to be included in a charge by subsection (1) may, in a schedule to the charge, be expressly excluded or may be varied by setting out the term, appropriately amended.

Amendment
of standard
charge terms
in individual
charge

(3) Where a charge refers to more than one set of standard charge terms by their filing numbers, the charge shall be deemed to include only the set that was filed last.

Only one
set to be
incorporated
by reference

(4) Where there is a conflict between an express term in a charge and a term deemed to be included in the charge by subsection (1), the express term prevails.

Express
term
governs

10.—(1) A charge that refers to a set of standard charge terms filed under subsection 8 (1) by the set's filing number shall not be registered before a copy of the set is available in the land registry office where the charge is to be registered, as described in subsection 8 (4).

When charge
may be
registered

(2) The fact that a charge is registered in a manner that contravenes subsection (1) does not, in itself, invalidate the registered charge.

Saving

Disclosure:
offence

11. A person named as chargee in a charge containing standard charge terms that have been filed under subsection 8 (1) who takes the charge before providing the chargor or the chargor's solicitor with a copy of the standard charge terms is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Director
may require
filing

12.—(1) Where the Director is satisfied that a charge presented for registration contains terms that should be filed under subsection 8 (1) because of the frequency of their use in charges in favour of the chargee, the Director may give the chargee notice in the prescribed form and manner that on and after a day specified by the Director, no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization.

Day
to be
specified

(2) The day specified by the Director in a notice given under subsection (1) shall be a day at least 120 days after the date of the notice.

No
registration
where filing
required

(3) Where the Director has given a notice under subsection (1), no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization on or after the day specified by the Director.

Seal not
required

13.—(1) Despite any statute or rule of law, a transfer or other document transferring an interest in land, a charge or discharge need not be executed under seal by any person, and such a document that is not executed under seal has the same effect for all purposes as if executed under seal.

Guarantee

(2) Subsection (1) applies to a guarantee in a charge.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating parts of Ontario for the purposes of this Part;
- (b) prescribing forms for transfers, charges, discharges and other documents to be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, and prescribing the manner of their completion and execution by individuals and corporations;
- (c) authorizing the Director to issue instructions for the completion and execution of documents;

- (d) authorizing the Director to approve forms prescribed under clause (b), and prohibiting the registration of documents in forms prescribed under clause (b) that are not approved by the Director;
- (e) prescribing standard charge terms for the purpose of subsection 7 (5);
- (f) prescribing the form and manner in which sets of standard charge terms are to be filed with the Director under subsection 8 (1) and are to be made available for public inspection and copying;
- (g) prescribing fees payable under subsections 8 (4) and (5);
- (h) prescribing the form and manner in which notice is to be given under section 12;
- (i) prescribing the form and manner in which statements in documents are to be made;
- (j) prescribing the manner in which a party to a document registered under the *Land Titles Act* or the *Registry Act* may notify the land registrar of changes in the party's address for service.

R.S.O. 1980,
cc. 230, 445

PART II

AUTOMATED RECORDING AND PROPERTY MAPPING

15. Where land is designated for the purposes of Part I, the Lieutenant Governor in Council may by regulation designate all or any part of the land for the purpose of implementing a system for automated information recording and retrieval and property mapping.

Automated
recording
and property
mapping in
designated
areas

16.—(1) The Director may by order fix a lower fee than that prescribed under the *Land Titles Act* or the *Registry Act* for any service that relates to land designated under this Part, and the lower fee shall be in effect for a specified period not exceeding three months from the designation of the land to which the service relates.

Temporary
fee
reduction
during
training
period

R.S.O. 1980,
cc. 230, 445

(2) The *Regulations Act* does not apply to an order made under subsection (1).

R.S.O. 1980,
c. 446, does
not apply

PART III

AMENDMENTS TO STATUTE LAW

17.—(1) Section 6 of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Statement of
consideration

6. A statement of consideration money or other consideration in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any receipt being endorsed on it.

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Statement
as evidence
for
subsequent
purchaser

7. A statement of consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof.

(3) Section 23 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . .

(5) Subsections (1), (2), (3) and (4) do not apply to conveyances of land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that are executed on or after the day on which the land is designated under clause 14 (a) of that Act.

18.—(1) Subsection 42 (3) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Proof that
property
not a
matrimonial
home
1984, c. . .

(3) For the purpose of subsection (2), an affidavit of the person making the disposition or encumbrance, or, where the property is located in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, a statement by the person,

- (a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;
- (b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home;

- (c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled; or
- (d) verifying that the other spouse has released all rights under this Part by a separation agreement,

shall, unless the person to whom the disposition or encumbrance is made had actual notice to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home, but the affidavit or statement shall not be deemed to be sufficient proof that the property is not a matrimonial home where it is made by the attorney of the person making the disposition or encumbrance.

(2) Clause 45 (1) (f) of the said Act is repealed and the following substituted therefor:

- (f) where a false affidavit is given or a false statement is made under subsection 42 (3), direct,
 - (i) the person who swore the false affidavit or made the false statement, or
 - (ii) any person who knew at the time it was sworn or made that the affidavit or statement was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

19.—(1) Section 1 of the *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (aa) “facsimile” means an accurate reproduction of a book, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;
- (ab) “land” means land, tenements, hereditaments and appurtenances and any interest therein;

(ga) “property” means land designated as a property under subsection 141a(2) or (4).

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Fee and
receiving
record

7. Upon receiving an instrument for registration or deposit, the land registrar shall record it and the fee charged in a manner approved by the Director of Land Registration.

(3) Section 59 of the said Act is amended by adding thereto the following subsection:

Payment
re surveys
for property
mapping

(3a) The Director of Land Registration may direct that all or part of the costs of a survey of land required to facilitate the inclusion of the land in a property map referred to in subsection 141a(3) be paid out of The Land Titles Survey Fund.

(4) Section 60 of the said Act is amended by adding thereto the following subsection:

Reliance
on automated
index
1984, c... .

(4a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the parcel register is entitled to compensation from The Land Titles Assurance Fund.

(5) Section 70 of the said Act is repealed and the following substituted therefor:

Description
of registered
owner

70. Subject to section 67, no person, other than a corporation, may be shown as the registered owner of land or a charge unless the person is described by surname and by the first given name in full, followed by another given name, if any, in full.

(6) Subsection 75 (1) of the said Act is amended by striking out “books” in the fourth line and inserting in lieu thereof “records”.

(7) Subsection 75 (2) of the said Act is amended by striking out “book” in the second line and inserting in lieu thereof “record”.

(8) Subsection 81 (3) of the said Act is repealed and the following substituted therefor:

When
registration
complete

(3) Registration of an instrument is complete when the instrument and its entry in the proper register are certified in the prescribed manner by the land registrar, deputy or assist-

ant deputy land registrar, and the time of receipt of the instrument shall be deemed to be the time of its registration.

(9) Section 82 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to a charge or transfer of registered land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . .

(10) The said Act is amended by adding thereto the following section:

83a. The land registrar may,

- (a) refuse to accept for registration an instrument,
 - (i) that is wholly or partly illegible or unsuitable for microfilming, or
 - (ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, affect or relate to an interest in land; and
 - (b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.
- Land registrar may refuse registration or refrain from recording in certain cases
1984, c. . .

(11) Section 93 of the said Act is amended by adding thereto the following subsection:

(5a) The authorization mentioned in subsection (5) is not required where the instrument is to be registered as a charge against land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . .

(12) The said Act is further amended by adding thereto the following section:

97a. Sections 94, 95, 96 and 97 do not apply to a charge of registered land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984, c. . .

(13) Section 109 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . . .

(2) Subsection (1) does not apply to a transfer of registered leasehold land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act.

(14) The said Act is further amended by adding thereto the following sections:

Application

1984, c. . . .

141a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*.

Properties
and property
identifiers

(2) The Director of Land Registration shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties.

Property
maps, etc.

(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed.

Idem

(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Parcel
register

(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the parcel register and enter every instrument that affects a property in the parcel register under the property identifier assigned to that property.

Other
indexes and
records

(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of
earlier
instruments

(7) The Director of Land Registration may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director of Land Registration, in the parcel register under the property identifiers for the properties affected by the instruments.

Application

1984, c. . . .

141b.—(1) This section applies only to documents affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

- (2) A document shall not be registered unless it contains, Brief description and property identifier, etc.
- (a) a reference to the parcel number, if any, of the land it affects;
 - (b) a reference to the lot, part lot or other unit on the plan or concession it affects;
 - (c) where the document deals with part of a property or part of a parcel, a registrable description of the land it affects; and
 - (d) the property identifier, if any, assigned under subsection 141a(2) or (4) to the property it affects.

- (3) Subsection (2) does not apply to an instrument that is, Exceptions
- (a) a plan; or
 - (b) one of a prescribed class of instruments.

(4) Clauses (2) (b) and (c) do not apply to an instrument Idem that is a discharge of charge purporting to discharge a charge completely.

(15) Section 147 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to land in the parts of Exception 1984, c. . . Ontario designated under Part II of the *Land Registration Reform Act, 1984*.

(16) Section 162 of the said Act is amended by adding thereto the following subsection:

(1a) The Lieutenant Governor in Council may make regulations, Idem

- (a) prescribing the manner in which instruments and entries in the register are to be certified at registration;
- (b) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (c) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;

- (d) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (e) requiring land registrars to assign to persons who ask to search the records of the land registry office account numbers and other identification to enable them to do so;
- (f) prescribing the manner in which instruments, books, public records and facsimiles of them are to be produced for inspection;
- (g) prescribing the manner in which copies of instruments, books and public records are to be produced and certified;
- (h) prescribing methods and standards for computer entry, storage and retrieval of information;
- (i) prescribing the manner in which land is to be divided into blocks and properties;
- (j) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (k) prescribing the manner in which property identifiers are to be assigned;
- (l) prescribing the manner in which the abstract index is to be created and maintained;
- (m) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 141a(6);
- (n) prescribing the manner in which instruments are to be entered for the purpose of subsection 141a(7);
- (o) prescribing classes of instruments for the purpose of clause 141b(3) (b);
- (p) requiring that printed copies of the parcel register relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

(17) Subsection 162 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) or (1a) may be limited to one or more land titles divisions or one or more part or parts of a land titles division or divisions.

Application
of regulations

(18) Section 164 of the said Act is amended by adding thereto the following subsections:

(3) Subsection (2) does not apply in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. . .

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed,

Production of
instruments,
copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(19) The said Act is further amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

164a.—(1) Where a registered instrument or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the registered instrument or written record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original registered instrument or written record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(20) Subsection 165 (1) of the said Act is repealed and the following substituted therefor:

Penalty for
altering or
removing
records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan or registered instrument, or by any means or in any way adds to or takes from the contents of any book, record, plan or instrument, and any person who, without lawful authority, removes or attempts to remove any book, record, plan or instrument from the place where it is kept is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan or instrument that the person alters, removes or attempts to remove.

(21) Section 166 of the said Act is amended by adding thereto the following subsection:

Exception

(5) Subsections (1), (2), (3) and (4) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

1984, c. . .

20.—(1) The *Mortgages Act*, being chapter 296 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

8a. Sections 7 and 8 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984, c. . .

(2) The said Act is further amended by adding thereto the following section:

38a. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with *The Short Forms of Mortgages Act*, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with this Part, is as effectual as if *The Short Forms of Mortgages Amendment Act, 1964* had not been passed. Transitional
provision
1964, c. 110

21. Section 49 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following subsections:

- (21a) Where a deed or transfer, Exception
re prescribed
statements
- (a) contains a statement by the grantor, verifying that to the best of his or her knowledge and belief the deed or transfer does not contravene this section;
 - (b) contains a statement by the grantor's solicitor, verifying that,
 - (i) he or she has explained the effect of this section to the grantor,
 - (ii) he or she has made inquiries of the grantor to determine that the deed or transfer does not contravene this section,
 - (iii) based on the information supplied by the grantor, to the best of the solicitor's knowledge and belief, the deed or transfer does not contravene this section, and
 - (iv) he or she is an Ontario solicitor in good standing; and
 - (c) contains a statement by the grantee's solicitor, verifying that,

- (i) he or she has investigated the title to the land and, where relevant, to abutting land,
- (ii) he or she is satisfied that the record of title to the land and, where relevant, to abutting land, reveals no existing contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that has the effect of preventing the conveyance of any interest in the land,
- (iii) to the best of his or her knowledge and belief, the deed or transfer does not contravene this section, and
- (iv) he or she acts independently of the grantor's solicitor and is an Ontario solicitor in good standing; and

R.S.O. 1980,
cc. 230, 445

- (d) is registered under the *Land Titles Act* or the *Registry Act*,

any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, does not and shall be deemed never to have had the effect of preventing the conveyance of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day the deed or transfer is registered.

Search
period re
*Planning
Act, 1983*

(21b) For the purposes of the statement referred to in sub-clause (21a) (c) (ii), a solicitor is not required to investigate the registered title to the land except with respect to the time since the registration of the most recent deed or transfer affecting the same land and containing the statements referred to in clauses (21a) (a), (b) and (c).

Exempting
orders

(21c) The Minister may by order designate any part of Ontario as land to which subsection (21a) shall not apply after the day a certified copy or duplicate of the order is registered

in the proper land registry office in a manner approved by the Director of Land Registration appointed under the *Registry Act*. R.S.O. 1980, c. 445

(21d) Every person who knowingly makes a false statement under subsection (21a) is guilty of an offence and on conviction is liable to a fine not exceeding the aggregate of the value of, Offence

(a) the land in respect of which the statement is made; and

(b) the relevant abutting land,

determined as of the day of registration of the deed or transfer containing the false statement.

22.—(1) Section 1 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

(ea) “facsimile” means an accurate reproduction of a book, instrument, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;

.

(oa) “property” means land designated as a property under subsection 20a(2) or (4).

(2) Section 16 of the said Act is amended by adding thereto the following subsections:

(3) Subsections (1) and (2) do not apply in the parts of Ontario that are designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed, Production of
instruments,
copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

- (ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

- (i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or
- (ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(3) The said Act is amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

16a.—(1) Where a registered instrument, a document deposited under Part II or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the instrument, document or record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original instrument, document or record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(4) Section 17 of the said Act is amended by adding thereto the following subsection:

(1a) Subsection (1) does not apply to an instrument or memorial affecting or relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(5) Clause 19 (2) (a) of the said Act is amended by striking out “manually or mechanically” in the second line.

(6) Subsection 19 (4) of the said Act is amended by inserting after “book” in the fifth line “or a facsimile thereof”.

(7) Subsection 19 (6) of the said Act is repealed and the following substituted therefor:

(6) Where an abstract index is copied, every instrument, except an instrument to which subsection 62 (2), 51 (10) or 51 (11) applies, shall be copied, and the land registrar shall carefully preserve the original abstract index or a facsimile thereof and produce it upon demand. Instruments
to be
included
in copy of
abstract
index

(8) Section 20 of the said Act is amended by adding thereto the following subsection:

(4) Subsections (1), (2) and (3) do not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(9) The said Act is further amended by adding thereto the following section:

20a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Application
1984, c. . . .

(2) The Director shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties. Properties
and property
identifiers

(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed. Property
maps, etc.

Idem

(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Abstract
index

(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the abstract index and enter every instrument that affects a property in the abstract index under the property identifier assigned to that property.

Other
indexes
and records

(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of
earlier
instruments

(7) The Director may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director, in the abstract index under the property identifiers for the properties affected by the instruments.

(10) Subsection 21 (1) of the said Act is repealed and the following substituted therefor:

Instruments
that may be
registered

(1) Except as otherwise provided in and subject to,

(a) this Act and the regulations; and

1984, c. . .

(b) in respect of instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, Part I of that Act and the regulations made thereunder,

any instrument within the meaning of clause 1 (f) and any other instrument specifically permitted to be registered under Part I of this Act may be registered.

(11) The said Act is further amended by adding thereto the following section:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

21a. The land registrar may,

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

1984, c. . .

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the

land registrar's opinion, affect or relate to an interest in land; and

- (b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(12) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception
1984, c. . . .

(13) The said Act is further amended by adding thereto the following section:

22a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Application
1984, c. . . .

(2) An instrument shall not be registered unless it contains,

Brief
description
and property
identifier,
etc.

- (a) a reference to the lot, part lot or other unit on the plan or concession it affects;
- (b) a registrable description of the land it affects, unless a registrable description of the same land is already recorded in the abstract index; and
- (c) the property identifier, if any, assigned under subsection 20a(2) or (4) to the property it affects.

(3) Subsection (2) does not apply to an instrument that is,

Exceptions

- (a) a plan;
- (b) identified by the letters "G.R." and to be registered under subsection 18 (6);
- (c) a by-law that does not directly affect title to land;
- (d) presented for registration together with a declaration in the prescribed form made by a party to the instrument or by the party's solicitor, attorney under registered power of attorney, or heirs, executors or administrators, or, where the party is a cor-

poration, by an officer thereof, stating that the instrument affects land within the registry division, and containing the information required by subsection (2);

- (e) a judgment or order of the court or of a judge, or a certificate or certified or notarial copy of such judgment or order, presented for registration together with a declaration in the prescribed form, made by one of the parties to the action or by the party's solicitor, stating that the instrument affects land within the registry division, and containing the information required by subsection (2); or

- (f) one of a prescribed class of instruments.

Further
recording

(4) A registered instrument may be recorded or further recorded in the abstract index upon the registration of a declaration in the prescribed form made by any of the persons mentioned in clauses (3) (d) and (e).

(14) The said Act is further amended by adding thereto the following section:

Exception

1984, c. . . .

25a. Sections 25 and 26 do not apply to an instrument that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(15) Section 32 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . . .

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(16) The said Act is further amended by adding thereto the following section:

Application

1984, c. . . .

32a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Seal of
court with
officer's
signature
suffices for
registration

(2) The seal of a court of record affixed to an instrument is sufficient evidence, for the purpose of registration, of the due execution of the instrument by the judge or the officer of the court signing it.

Execution by
corporation

- (3) Where an instrument is executed by a corporation,

- (a) the corporation's seal affixed to the instrument, with the signature of an authorized person; or
- (b) the signature of an authorized person, with the person's statement that he or she has authority to bind the corporation,

are sufficient evidence, for the purpose of registration, of the due execution of the instrument by the corporation.

(17) Section 37 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception

1984, c. . .

(18) Section 41 of the said Act is amended by adding thereto the following subsection:

(12) Subsections (1), (2), (3), (4), (6), (7) and (10) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Where subss.
(1-4, 6, 7,
10)
do not apply
1984, c. . .

(19) Section 42 of the said Act is repealed.

(20) Subsection 43 (2) of the said Act is repealed and the following substituted therefor:

(2) An instrument shall not be registered unless every grantee who is not a corporation is described by surname and by the first given name in full, followed by another given name, if any, in full.

Description
of grantee

(2a) Failure to comply with subsection (2) does not, in itself, invalidate a registered instrument.

Saving

(21) Subsection 56 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate shall mention the date of registration and the registration number of,

Contents

- (a) each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money; and
- (b) every other registered instrument relating exclusively to the mortgage.

(22) Section 58 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(2) Subsection (1) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of
registration
of discharge
of mortgage
predating

(3) Where a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day the land is designated under clause 14 (a) of that Act is discharged, a certificate of discharge under this Act and the regulations that complies with Part I of that Act and the regulations made thereunder is, when registered, as valid and effectual as a conveyance to the mortgagor, his heirs or assigns of his original estate in the mortgaged land or in the part thereof described in the certificate, as the case may be.

(23) Section 60 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(4a) Subsection (4) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of
certificate

(4b) The certificate when registered, if it is of payment in full of a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day on which the land is designated under clause 14 (a) of that Act, is as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

(24) Subsection 71 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 17, section 3, is repealed and the following substituted therefor:

Method

(2) The land registrar shall, immediately after becoming aware of any omission or error in recording or deleting,

- (a) notify all persons who may be adversely affected by the necessary entries, alterations or corrections; and
- (b) make, date and certify the necessary entries, alterations or corrections in the prescribed manner.

(25) Section 76 of the said Act is amended by striking out “book” in the first line.

(26) Section 77 of the said Act is repealed and the following substituted therefor:

77.—(1) Where and as the examiner of surveys directs, the land registrar, taking account of registered instruments and deposited plans, shall prepare and register a plan of an area designated by the examiner of surveys. Land registrar's compiled plan

(2) A plan prepared and registered under subsection (1) shall be known as a Land Registrar's Compiled Plan. Idem

(3) Where and as the Director directs, the land registrar, taking account of registered instruments and deposited plans, shall, New abstract index

- (a) divide an area designated by the Director into parcels for abstract purposes;
- (b) create a new heading in the abstract index for each parcel; and
- (c) record previously registered instruments and deposited documents affecting or relating to the designated area under the new headings.

(4) A parcel may include a reference to any easement in respect of which the land is the dominant or servient tenement. Easements

(27) Clause 82 (1) (d) of the said Act is amended by adding at the end thereof “but shall not assign a property identifier to the lands or alter any property identifier that has been assigned under subsection 20a(2) or (4)”.

(28) Section 90 of the said Act is repealed and the following substituted therefor:

90. Upon receiving an instrument for registration or a document or plan for deposit, the land registrar shall record it and the fee charged in a manner approved by the Director. Record of fees, etc.

(29) Clauses 91 (b), (e) and (g) of the said Act are repealed and the following substituted therefor:

- (b) see that entries and registrations are made and certified in a proper manner, that the indexes and rec- records

ords are properly kept and that any original documents are properly stored;

instruction
of land
registrar

- (g) direct the land registrar how and in what manner to do any particular act or amend or correct whatever the Director may find amiss.

(30) Subsection 95 (1) of the said Act is repealed and the following substituted therefor:

Penalty
for altering
or removing
records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan, registered instrument or deposited document or by any means or in any way adds to or takes from the contents of any book, record, plan, instrument or document, and any person who, without lawful authority, removes or attempts to remove any book, record, plan, instrument or document from the place where it is kept, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan, instrument or document that the person alters, removes or attempts to remove.

(31) Subsection 96 (1) of the said Act is amended by adding thereto the following clauses:

- (ka) prescribing methods and standards for computer entry, storage and retrieval of information;

- (pa) prescribing the manner in which entries are to be certified;

- (pb) prescribing the form and manner in which entries in the records of land registry offices are to be made;

- (pc) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;

- (pd) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;

- (pe) requiring land registrars to assign to persons who ask to search the records of the land registry office

account numbers and other identification to enable them to do so;

- (pf) prescribing the manner in which instruments, documents, books, public records and facsimiles of them are to be produced for inspection;
- (pg) prescribing the manner in which copies of instruments, documents, books and public records are to be produced and certified;
- (ph) prescribing the manner in which land is to be divided into blocks and properties;
- (pi) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (pj) prescribing the manner in which property identifiers are to be assigned;
- (pk) prescribing the manner in which the abstract index is to be created and maintained;
- (pl) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 20a(6);
- (pm) prescribing the manner in which instruments are to be entered for the purpose of subsection 20a(7);
- (pn) prescribing classes of instruments for the purpose of clause 22a(4) (f);
- (po) requiring that printed copies of the abstract index relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act*, 1984, c. . . . be produced at prescribed times and prescribing the times at which they are to be produced.

(32) Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) may be limited to one or more registry divisions or one or more part or parts of a registry division or divisions.

Application
of regulations

(33) Section 100 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(2) Subsection (1) does not apply to a deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Requisition
to be filed

(3) Upon every deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the person making the deposit shall deliver to the land registrar a requisition in the prescribed form containing a description of the land to which the deposit relates that complies with subsection 22a(2).

(34) Subsections 101 (1) and (3) of the said Act are repealed and the following substituted therefor:

Numbering,
etc.

(1) Upon receiving a requisition under subsection 100 (1) and the documents mentioned in it, the land registrar shall cause the word "deposited" with the date and deposit number to be endorsed on the requisition.

Certificate
of deposit

(1a) Upon receiving a requisition under subsection 100 (3), the land registrar shall cause a certificate of deposit in the prescribed form to be endorsed on the requisition and every duplicate of it.

.

Entry in
abstract
index

(3) The land registrar shall enter in the abstract index against each lot, parcel or property mentioned in the requisition the words, "See Deposit No.....", and, where the requisition refers to only a part of a lot, the entry in the abstract index shall include a reference to the part of the lot.

(35) Section 102 of the said Act is amended by adding thereto the following subsection:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

(1a) The land registrar may,

(a) refuse to accept for deposit a document,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that relates to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, relate to an interest in land; and

1984, c. . .

- (b) refrain from recording a part of a deposited document relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the document does not, in the land registrar's opinion, relate to an interest in land.

(36) Section 108 of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 17, section 5, is amended by adding thereto the following subsection:

(3a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the abstract index is entitled to compensation from The Land Titles Assurance Fund, and clauses (2) (a) and (b) do not apply to the person's right to compensation.

Reliance
on automated
index
1984, c... .

23. The *Short Forms of Conveyances Act*, being chapter 472 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

5. Sections 1, 2, 3 and 4 do not apply to a deed of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where
ss. 1-4 do
not apply
1984, c... .

24. Section 6 of the *Short Forms of Mortgages Act*, being chapter 474 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. Sections 1, 2, 3, 4 and 5 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where
ss. 1-5 do
not apply
1984, c... .

PART IV

GENERAL

25.—(1) This Act, except subsection 22 (25), comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

(2) Subsection 22 (25) shall be deemed to have come into force on the 1st day of December, 1983.

Idem

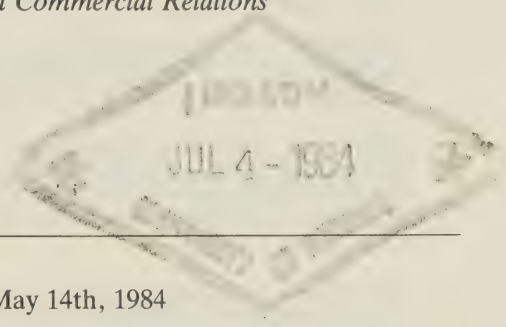
26. The short title of this Act is the *Land Registration Reform Act, 1984*.

Short title

Bill 66

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations



1st Reading May 14th, 1984
2nd Reading June 21st, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill, intended to facilitate the wider use of modern information technology in Ontario's land registration systems, is designed to take effect across the province in stages.

Part I (Documents) will apply to the parts of Ontario designated by regulation. Its provisions deal primarily with the form and execution of conveyancing documents and are capable of functioning in registry offices which are not automated. Users will be required to employ simplified standard forms from which all affidavits and all seals (except corporate seals) have been eliminated. A scheme allowing the registration of short form mortgages, incorporating standard terms which will be on file but not repeated in each mortgage document, is included.

Part II (Automated Recording and Property Mapping) authorizes the further designation of areas to which Part I already applies, as areas in which automated recording and property mapping systems will be employed.

Part III contains amendments to nine related statutes.

Part I (DOCUMENTS)

SECTION 1. Self-explanatory.

SECTION 2. Part I is to apply to conveyancing documents that affect land in the areas designated by regulation.

SECTION 3. Conveyancing documents, to qualify for registration under the *Registry Act* or the *Land Titles Act*, or deposit under the *Registry Act*, must comply with Part I and the regulations. However, documents executed before the relevant area was brought under Part I are exempted from this requirement, and the Director of Land Registration and District Court judges are also empowered to permit the registration or deposit of documents which do not satisfy the requirements of Part I and the regulations. Non-compliance with the registration requirements of Part I and the regulations does not invalidate a document once registered or deposited.

SECTION 4. Documents which do not satisfy the formal requirements of Part I and the regulations may be registered if they are attached to documents which do satisfy those requirements. (See also clause 3 (1) (b) of the Bill.)

SECTION 5. The traditional four covenants and release and various covenants for specific situations, currently deemed to be included in deeds and transfers by virtue of section 23 of the *Conveyancing and Law of Property Act* and the *Short Forms of Conveyances Act*, are repeated in more modern language and deemed to be included in transfers to which Part I applies.

SECTION 6. Mortgages of *Registry Act* land (unlike mortgages of *Land Titles Act* land) currently operate as conveyances of the legal estate in the land to the mortgagee, the mortgagor retaining only the equity of redemption. Section 6 eliminates this concept from mortgages of land to which Part I applies, while preserving all the rights and remedies enjoyed by mortgagors and mortgagees.

SECTION 7. The traditional covenants currently deemed to be included in mortgages by virtue of sections 7 and 8 of the *Mortgages Act* and the *Short Forms of Mortgages Act*, adjusted to take account of the amendment made by section 6 of the Bill, are repeated in more modern language and deemed to be included in mortgages (referred to throughout the Bill as "charges") to which Part I applies.

A mortgage in the prescribed form is deemed to include any standard mortgage terms that are prescribed by regulation, unless they are specifically excluded or the short

form scheme is used (see explanatory note for sections 8 to 12 of the Bill). This will permit the adoption of basic uniform mortgage terms in routine transactions.

SECTIONS 8 to 12. These sections create a scheme for the registration of short form mortgages. A lender who has filed a set of standard mortgage terms with the Director may register short form mortgages which incorporate the standard mortgage terms by referring to the set's filing number. Provision is made for the variation of terms in individual short form mortgages. A lender who wishes to make general amendments to the standard mortgage terms must file a new set of terms.

Lenders are required to provide copies of their standard mortgage terms to borrowers before a mortgage is executed.

The Director may require lenders to file standard mortgage terms that they use frequently and to register short form rather than long form mortgages.

SECTION 13. Parties executing conveyancing documents will no longer be required to do so under seal.

SECTION 14. Self-explanatory.

Part II (AUTOMATED RECORDING AND PROPERTY MAPPING)

SECTION 15. Areas to which Part I applies may be further designated by regulation as areas in which automated recording and property mapping systems will be employed.

SECTION 16. During the first three months of experience with the automated system in a particular area, registration and search fees may be reduced temporarily by the Director of Land Registration without the necessity of amending the general fee regulations made under the *Land Titles Act* and the *Registry Act*.

Part III (AMENDMENTS TO STATUTE LAW)

SECTION 17. *Conveyancing and Law of Property Act*

Subsections 1 and 2. References to a receipt for consideration money in sections 6 and 7 of the Act are replaced by references to a statement of consideration money, because the form of transfer contemplated by Part I of the Bill will contain a recital of the consideration rather than a receipt as such.

Subsection 3. Conveyances of land in parts of Ontario subject to Part I of the Bill will include the implied covenants found in section 5 of the Bill, making subsections 23 (1), (2), (3) and (4) of the *Conveyancing and Law of Property Act* superfluous.

SECTION 18. *Family Law Reform Act*

Subsection 1. In areas subject to Part I of the Bill, a statement by a person conveying or charging land will be acceptable as an alternative to the affidavit contemplated by subsection 42 (3) of the *Family Law Reform Act*.

The revised wording of the subsection clarifies that the affidavit (or statement) must be made by the person himself or herself.

Subsection 2. The sanction provided in clause 45 (1) (f) of the Act against giving a false affidavit under subsection 42 (3) is extended to false statements under that subsection.

SECTION 19. *Land Titles Act*

Subsection 1. Self-explanatory.

Subsection 2. A reference to the fee and receiving book is deleted because a land registrar's fee and receiving record will not necessarily be in book form where automated recording is in effect.

Subsection 3. Self-explanatory.

Subsection 4. Users of the automated index are entitled to rely on it.

Subsection 5. Self-explanatory.

Subsections 6 and 7. The broader word "record" is substituted for the word "book" because land registry records will not necessarily be in book form where automated recording is in effect.

Subsection 8. Entries will not be capable of being signed (as existing subsection 81 (3) of the *Land Titles Act* requires) if they are made electronically. The broader concept of certification is used instead.

Subsection 9. The new subsection is complementary to section 13 of the Bill.

Subsection 10. The land registrar may refuse to register instruments that are illegible or unsuitable for microfilming. In the case of land in parts of Ontario subject to Part I of the Bill, the land registrar is also empowered to refuse to register instruments containing irrelevant material, or to refrain from recording any part of a registered instrument that is irrelevant.

Subsection 11. Subsection 93 (5) of the *Land Titles Act* requires the authorization of the parties or their solicitors for the registration of a bond mortgage as a charge on land. Where Part I of the Bill applies bond mortgages will be registered as schedules to the prescribed form of charge, executed by the party giving the charge, and specific authorization for registration will no longer be necessary.

Subsection 12. Charges of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 94, 95, 96 and 97 of the *Land Titles Act* superfluous.

Subsection 13. Transfers of leasehold land in parts of Ontario subject to Part I will include the implied covenants found in section 5 of the Bill, making section 109 of the *Land Titles Act* superfluous.

Subsection 14. Section 141a provides for the establishment and maintenance of the automated recording and property mapping systems contemplated by Part II. These systems will require that records be organized according to property identifiers, and the section also creates a mechanism for the assignment of the identifiers, which will give access to the automated parcel register and to the property maps. Pre-system records may be incorporated into the automated parcel register as the Director instructs.

Section 141b applies to all Part I lands and sets standards for property descriptions.

Subsection 15. Section 147 of the *Land Titles Act* allows land registrars to prepare index plans to facilitate property description. No new index plans will be required for lands that are subject to Part II and organized according to property identifiers.

Subsections 16 and 17. Self-explanatory.

Subsection 18. Land registrars for areas subject to Part I need not retain original documents or records if they retain facsimiles of them, and they may supply facsimiles, copies and certified copies of facsimiles to users.

Subsection 19. This provision is intended to ensure that the output of automated land registry record-keeping systems will be admissible in evidence to the same extent as the

original input, although it may appear in a different form, and to provide that output may also be admitted where there is no original as such.

Subsection 20. References to written alterations are deleted. Because tampering with electronic records is a serious and potentially disruptive offence, especially when committed on a large scale, a separate fine may be imposed for each record affected.

Subsection 21. Subsections 166 (1), (2), (3) and (4) of the *Land Titles Act* deal with addresses for service, a subject which will be covered by regulations under Part I.

SECTION 20. *Mortgages Act*

Subsection 1. Mortgages of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 7 and 8 of the *Mortgages Act* superfluous.

Subsection 2. The proposed section is identical to existing section 6 of the *Short Forms of Mortgages Act*. Since that Act will be consulted less frequently as Part I is extended across the province (see section 25 of the Bill), this provision is, in effect, transferred to the *Mortgages Act*.

SECTION 21. *Planning Act, 1983*

Proposed subsection 49 (21a), applicable throughout Ontario, provides that where a deed or transfer contains prescribed statements by the grantor and lawyers on both sides, any contraventions of the *Planning Act* up to and including the deed or transfer are, in effect, forgiven.

The search of title for *Planning Act* purposes carried out by a grantee's lawyer to support his or her prescribed statement need not go back beyond the most recent set of prescribed statements that are registered.

The Minister of Municipal Affairs and Housing may, by an order that takes effect upon registration, withdraw any land from the application of subsection 49 (21a).

A false statement made under subsection 49 (21a) is an offence punishable by a fine whose maximum level represents the value of the improperly subdivided lands immediately after the subdivision took place.

SECTION 22. *Registry Act*

Subsection 1. Self-explanatory.

Subsection 2. Land registrars for areas subject to Part I of the Bill need not retain original documents or records if they retain facsimiles of them, and they may supply facsimiles, copies and certified copies of facsimiles to users.

Subsection 3. This provision is intended to ensure that the output of automated land registry record-keeping systems will be admissible in evidence to the same extent as the original input, although it may appear in a different form, and that output may also be admitted where there is no original as such.

Subsection 4. The amendment is complementary to the amendment made by subsection 2.

Subsection 5. The deletion of a reference to manual or mechanical reproduction of books is intended to authorize land registrars to use any available copying technology.

Subsections 6 and 7. Land registrars for areas subject to Part I need not retain original record books if they retain facsimiles of them. Ruled-off mortgages are added to the category of instruments which need not be copied when an abstract index is copied.

Subsections 8 and 9. Section 20a provides for the establishment and maintenance of the automated recording and property mapping systems contemplated by Part II. These systems will require that records be organized according to property identifiers, and the section also creates a mechanism for the assignment of the identifiers, which will give access to the automated abstract index and to the property maps. Pre-system records may be incorporated into the automated abstract index as the Director instructs. Subsections 20 (1), (2) and (3) of the *Registry Act* relate to the non-automated abstract index and will not apply to land in parts of Ontario subject to Part II.

Subsection 10. A reference to the registration requirements of Part I and the regulations made under it is added.

Subsection 11. The land registrar may refuse to register instruments that are illegible or unsuitable for microfilming. In the case of land in parts of Ontario subject to Part I of the Bill, the land registrar is also empowered to refuse to register instruments containing irrelevant material, or to refrain from recording any part of a registered instrument that is irrelevant.

Subsections 12 and 13. Property description requirements for instruments affecting land in parts of Ontario subject to Part I will be somewhat different from existing requirements.

Subsection 14. Affidavits of execution will not be required for the registration of instruments affecting land in parts of Ontario subject to Part I.

Subsections 15 and 16. Where a court of record or a corporation executes an instrument affecting land in a part of Ontario subject to Part I, the execution requirements will be somewhat different from existing requirements. Clause 32a (3) (b) reflects the fact that corporations under the *Business Corporations Act*, 1982 are not required to have seals.

Subsection 17. Section 37 of the *Registry Act* deals with addresses for service, a subject which will be covered by regulations under Part I.

Subsection 18. Affidavits of age and spousal status will not be required for the registration of instruments affecting land in parts of Ontario subject to Part I. (Equivalent statements will, however, be included in the prescribed conveyancing forms.)

Subsection 19. Throughout Ontario, affidavits and other evidence of compliance with the *Planning Act*, 1983 will no longer be required for the registration of instruments.

Subsection 20. Self-explanatory.

Subsection 21. The amendment is intended to facilitate the ruling off of mortgages and instruments relating exclusively to them under subsections 51 (8) and (11) of the *Registry Act*.

Subsections 22 and 23. The amendments are complementary to the amendment to the law of mortgages made by section 6 of the Bill.

Subsection 24. An entry (a broader term than "memorandum", used in the existing section) will not be capable of being signed (as existing subsection 71 (2) requires) if it is made electronically. The broader concept of certification is used instead, and the land registrar is required, before making corrections, to notify persons who may be adversely affected.

Subsection 25. A reference to the plan index book is deleted because that index will not necessarily be in book form where automated recording is in effect.

Subsection 26. Section 77 of the *Registry Act*, dealing with land registrars' compiled plans and new abstract indexes, is revised in a manner that takes account of current practice and will be compatible with Parts I and II.

Subsection 27. In certain circumstances county and district court judges are empowered to cancel plans of subdivision and direct how the affected lands are to be described. It would be inappropriate for this power to extend to altering property identifiers, which are the key for access to the automated parcel register.

Subsection 28. A reference to the fee and receiving book is deleted because a land registrar's fee and receiving record will not necessarily be in book form where automated recording is in effect.

Subsection 29. References to record books, the inspection of certain indexes and the compulsory retention of original documents are deleted.

Subsection 30. References to written alterations are deleted. Because tampering with electronic records is a serious and potentially disruptive offence, especially when committed on a large scale, a separate fine may be imposed for each record affected.

Subsections 31 and 32. Self-explanatory.

Subsections 33 and 34. The forms and property descriptions required for deposits relating to land in parts of Ontario subject to Part I will be somewhat different from existing requirements. Deposits as well as their duplicates are to be endorsed with certificates of deposit.

Subsection 35. New subsection 102 (1a) parallels new section 21a, discussed in the note to subsection 22 (11) of the Bill.

Subsection 36. Users of the automated index are entitled to rely on it.

SECTION 23. *Short Forms of Conveyances Act*

Conveyances of land in parts of Ontario subject to Part I will include the implied covenants found in section 5 of the Bill, making sections 1, 2, 3 and 4 of the *Short Forms of Conveyances Act* superfluous.

SECTION 24. *Short Forms of Mortgages Act*

Existing section 6 is, in effect, transferred to section 38a of the *Mortgages Act* (see explanatory note for subsection 20 (2) of the Bill).

Mortgages of land in parts of Ontario subject to Part I will include the implied covenants found in section 7 of the Bill, making sections 1, 2, 3, 4 and 5 of the *Short Forms of Mortgages Act* superfluous.

Bill 66

1984

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

DOCUMENTS

1. In this Part,

Interpretation

- (a) "charge" means a charge on land given for the purpose of securing the payment of a debt or the performance of an obligation, and includes a charge under the *Land Titles Act* and a mortgage, but does not include a rent charge;

R.S.O. 1980,
c. 230

R.S.O. 1980,
c. 445

- (b) “charge book” means the book maintained under subsection 8 (5);
- (c) “chargee” means a person in whose favour a charge is given;
- (d) “chargor” means a person who gives a charge;
- (e) “Director” means the Director of Land Registration appointed under subsection 6 (1) of the *Registry Act*;
- (f) “discharge” means a discharge of a charge and includes a cessation of charge under the *Land Titles Act* and a certificate of discharge of mortgage under the *Registry Act*;
- (g) “document” includes an instrument as defined in clause 1 (f) of the *Registry Act*;
- (h) “land” means land, tenements, hereditaments and appurtenances and any estate or interest therein;
- (i) “land registrar” means a land registrar appointed under the *Land Titles Act* or the *Registry Act*;
- (j) “prescribed” means prescribed by the regulations;
- (k) “regulations” means the regulations made under this Part;
- (l) “successor” means an heir, executor or administrator;
- (m) “transfer” means a conveyance of freehold or leasehold land and includes a deed and a transfer under the *Land Titles Act*, but does not include a lease or a charge;
- (n) “transferee” means a person in whose favour a transfer is given;
- (o) “transferor” means a person who gives a transfer.

Application
of Part

2. This Part applies to documents affecting or relating to land in the parts of Ontario that are designated by regulation.

Form of
documents
R.S.O. 1980,
cc. 230, 445

3.—(1) A document shall not be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, unless,

- (a) its form and manner of completion and execution comply with this Part and the regulations; or
- (b) it is attached to a document whose form and manner of completion and execution comply with this Part and the regulations.

(2) Despite subsection (1), a document that is executed before the day the land it affects or to which it relates is designated under clause 14 (a) may be registered under the *Registry Act* or the *Land Titles Act*, or deposited under Part II of the *Registry Act*, as if this Act had not been passed.

Transitional

R.S.O. 1980,
cc. 445, 230

(3) Failure to comply with subsection (1) does not, in itself, invalidate a document that has been registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, after the coming into force of this section.

Saving

(4) The Director may authorize the registration under the *Land Titles Act* or the *Registry Act*, or the deposit under Part II of the *Registry Act*, of a document whose form or manner of execution does not comply with this Part and the regulations.

Director may
authorize
registration
or deposit

(5) Where the form or manner of execution of a document does not comply with this Part or the regulations, the county or district court of the county or district in which the land that the document affects or to which it relates is situated may, on an application made on notice to the Director, order that the document be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*.

Court may
order
registration
or deposit

(6) An order or refusal to make an order under subsection (5) may be appealed to the Divisional Court by the applicant or by the Director.

Appeal

4.—(1) A document attached as a schedule to a document whose form is prescribed shall be deemed to be part of the document whose form is prescribed.

Incorporation
of schedules

(2) Where there is a conflict between the contents of a document whose form is prescribed and the contents of a document attached to it as a schedule, the document whose form is prescribed prevails.

Prescribed
form
governs

5.—(1) A transfer in the prescribed form shall be deemed to include the following covenants and release by the transferor, for the transferor and the transferor's successors, to and with the transferee and persons deriving title under the transferee:

Transfer:
implied
covenants

Usual
covenants
and release

1. In a transfer of freehold or leasehold land by the beneficial owner for valuable consideration, unless the transfer is expressed to be a quitclaim:
 - i. That the transferor has the right to convey the land to the transferee.
 - ii. That the transferee shall have quiet enjoyment of the land.
 - iii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
 - iv. That the transferor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
 - v. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

Covenant re
leasehold

2. In a transfer of leasehold land by the beneficial owner for valuable consideration:

That, despite anything done, omitted or permitted by the transferor, the lease or grant creating the term or estate for which the land is transferred is, at the time the transfer is given, a valid lease or grant of the property conveyed, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the transfer is given.

Covenants
and release
by trustee,
etc.

3. In a transfer of freehold or leasehold land by a transferor who transfers as trustee or chargee, as personal representative of a deceased person, as committee of a mentally incompetent person, or under a court order:
 - i. That the transferor has not done, omitted or permitted anything whereby the land is or

may be encumbered or whereby the transferor is hindered from giving the transfer.

- ii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
 - iii. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.
4. In a transfer of freehold or leasehold land by way of settlement by a transferor who transfers as settlor:

Settlor's
covenant
for further
assurances

That the transferor and the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the expense of any person deriving title under the transfer, as may be reasonably required.

(2) Where a transfer to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made,

Multiple
parties

- (a) by each transferor to the extent of the interest or share transferred by the transferor; and
- (b) with the transferees jointly, if the transfer is made to them jointly, or with each transferee, if the transfer is made to them as tenants in common.

(3) Where a transfer to which subsection (1) applies is given at the direction of the beneficial owner, the transfer shall be deemed to include the appropriate covenants set out in subsection (1) on the part of the beneficial owner as if the beneficial owner were the transferor.

Covenant by
beneficial
owner
directing
transfer

(4) A covenant deemed to be included in a transfer by this section may, in a schedule to the transfer, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Amendment
of implied
covenants

(5) The benefit of a covenant deemed to be included in a transfer by this section runs with the interest of the transferee in the land transferred, and may be enforced by any person in whom the interest or part of it vests.

Enforcement
of covenant

Charge
not a
transfer

6.—(1) A charge does not operate as a transfer of the legal estate in the land to the chargee.

Defeasance

(2) A charge ceases to operate when the money and interest secured by the charge are paid, or the obligations whose performance is secured by the charge are performed, in the manner provided by the charge.

Rights and
remedies
preserved

(3) Despite subsection (1), a chargor and chargee are entitled to all the legal and equitable rights and remedies that would be available to them if the chargor had transferred the land to the chargee by way of mortgage, subject to a proviso for redemption.

Charge:
implied
covenants

7.—(1) A charge in the prescribed form shall be deemed to include the following covenants by the chargor, for the chargor and the chargor's successors, with the chargee and the chargee's successors and assigns:

Usual
covenants

1. In a charge of freehold or leasehold land by the beneficial owner:

- i. That the chargor or the chargor's successors will pay, in the manner provided by the charge, the money and interest it secures, and will pay the taxes assessed against the land.
- ii. That the chargor has the right to give the charge.
- iii. That the chargor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
- iv. That the chargor or the chargor's successors will insure the buildings on the land as specified in the charge.
- v. That the chargee on default of payment for the number of days specified in the charge or in the *Mortgages Act*, whichever is longer, may on giving the notice specified in the charge or required by that Act, whichever is longer, enter on and take possession of, receive the rents and profits of, lease or sell the land.
- vi. That where the chargee enters on and takes possession of the land on default as described

in subparagraph v, the chargee shall have quiet enjoyment of the land.

- vii. That the chargor or the chargor's successors will, on default, execute such assurances of the land and do such other acts, at the chargee's expense, as may be reasonably required.
 - viii. That the chargee may distrain for arrears of interest.
 - ix. That on default of payment of the interest secured by the charge, the principal money shall, at the option of the chargee, become payable.
2. In a charge of freehold land by the beneficial owner, that the chargor has a good title in fee simple to the land, except as the records of the land registry office disclose. Covenant re freehold
3. In a charge of leasehold land by the beneficial owner: Covenant re leasehold
- i. That, despite anything done, omitted or permitted by the chargor, the lease or grant creating the term or estate for which the land is held is, at the time the charge is given, a valid lease or grant of the land charged, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the charge is given.
 - ii. That the chargor or the chargor's successors will, while the moneys secured by the charge remain unpaid, pay, observe and perform all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant and will indemnify the chargee against all costs and damages incurred by reason of any non-payment of rent or non-observance or non-performance of the covenants, conditions and agreements.
- (2) Where a charge to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made, Multiple parties

- (a) by the chargors jointly and severally, unless the charge specifies otherwise; and
- (b) with the chargees jointly, unless the moneys secured are expressly secured to them in several shares or distinct sums.

Amendment
of implied
covenants

(3) A covenant deemed to be included in a charge by subsection (1) may, in a schedule to the charge, or in a set of standard charge terms filed under subsection 8 (1) and referred to in the charge by its filing number, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Enforcement
of covenant

(4) A covenant deemed to be included in a charge by subsection (1) may be enforced by a successor or assignee of the chargee.

Prescribed
terms

(5) A charge in the prescribed form shall be deemed to include the prescribed standard charge terms, unless a set of standard charge terms filed under subsection 8 (1) is referred to in the charge by its filing number.

Amendment
of prescribed
terms

(6) A prescribed standard charge term deemed to be included in a charge by subsection (5) may, in a schedule to the charge, be expressly excluded or be varied by setting out the term, appropriately varied.

Prescribed
terms to be
included in
charge book

(7) The Director shall include the prescribed standard charge terms in the charge book maintained under subsection 8 (5).

Filing of
standard
charge
terms

8.—(1) A person may file with the Director, in the prescribed manner and form, a set of standard charge terms and, with the consent of the Director, may file a set of standard charge terms in a form other than the prescribed form.

Amendment
of set of
standard
charge terms

(2) A set of standard charge terms filed under subsection (1) may be amended by filing a further set of standard charge terms under subsection (1).

Duties of
Director

(3) Where a set of standard charge terms is filed under subsection (1), the Director shall,

- (a) promptly assign a filing number to the set and advise the person who filed the set of its filing number; and
- (b) ensure that copies of the set, identified by its filing number, are provided to the land registry offices for

the parts of Ontario designated under this Part within thirty days of the day on which the set was filed.

(4) Every set of standard charge terms filed under subsection (1) shall be made available in the prescribed manner and at the prescribed fee for public inspection and copying in the land registry offices for the parts of Ontario designated under this Part on a day not later than thirty days after the day on which the set is filed with the Director.

Public
inspection

(5) The Director shall enter all sets of standard charge terms filed under subsection (1) during each calendar year in a charge book and shall as soon as possible after the end of the calendar year,

Annual
charge
book

- (a) provide copies of the charge book to the land registry offices for the parts of Ontario designated under this Part; and
- (b) make available copies of the charge book for purchase by the public at the prescribed fee.

9.—(1) A charge shall be deemed to include a set of standard charge terms filed under subsection 8 (1) if the set is referred to in the charge by its filing number.

Effect of
filing:
incorporation
by reference

(2) A term deemed to be included in a charge by subsection (1) may, in a schedule to the charge, be expressly excluded or may be varied by setting out the term, appropriately amended.

Amendment
of standard
charge terms
in individual
charge

(3) Where a charge refers to more than one set of standard charge terms by their filing numbers, the charge shall be deemed to include only the set that was filed last.

Only one
set to be
incorporated
by reference

(4) Where there is a conflict between an express term in a charge and a term deemed to be included in the charge by subsection (1), the express term prevails.

Express
term
governs

10.—(1) A charge that refers to a set of standard charge terms filed under subsection 8 (1) by the set's filing number shall not be registered before a copy of the set is available in the land registry office where the charge is to be registered, as described in subsection 8 (4).

When charge
may be
registered

(2) The fact that a charge is registered in a manner that contravenes subsection (1) does not, in itself, invalidate the registered charge.

Saving

Disclosure:
offence

11. A person named as chargee in a charge containing standard charge terms that have been filed under subsection 8 (1) who takes the charge before providing the chargor or the chargor's solicitor with a copy of the standard charge terms is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Director
may require
filing

12.—(1) Where the Director is satisfied that a charge presented for registration contains terms that should be filed under subsection 8 (1) because of the frequency of their use in charges in favour of the chargee, the Director may give the chargee notice in the prescribed form and manner that on and after a day specified by the Director, no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization.

Day
to be
specified

(2) The day specified by the Director in a notice given under subsection (1) shall be a day at least 120 days after the date of the notice.

No
registration
where filing
required

(3) Where the Director has given a notice under subsection (1), no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization on or after the day specified by the Director.

Seal not
required

13.—(1) Despite any statute or rule of law, a transfer or other document transferring an interest in land, a charge or discharge need not be executed under seal by any person, and such a document that is not executed under seal has the same effect for all purposes as if executed under seal.

Guarantee

(2) Subsection (1) applies to a guarantee in a charge.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating parts of Ontario for the purposes of this Part;
- (b) prescribing forms for transfers, charges, discharges and other documents to be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, and prescribing the manner of their completion and execution by individuals and corporations;
- (c) authorizing the Director to issue instructions for the completion and execution of documents;

- (d) authorizing the Director to approve forms prescribed under clause (b), and prohibiting the registration of documents in forms prescribed under clause (b) that are not approved by the Director;
- (e) prescribing standard charge terms for the purpose of subsection 7 (5);
- (f) prescribing the form and manner in which sets of standard charge terms are to be filed with the Director under subsection 8 (1) and are to be made available for public inspection and copying;
- (g) prescribing fees payable under subsections 8 (4) and (5);
- (h) prescribing the form and manner in which notice is to be given under section 12;
- (i) prescribing the form and manner in which statements in documents are to be made;
- (j) prescribing the manner in which a party to a document registered under the *Land Titles Act* or the *Registry Act* may notify the land registrar of changes in the party's address for service.

R.S.O. 1980,
cc. 230, 445

PART II

AUTOMATED RECORDING AND PROPERTY MAPPING

15. Where land is designated for the purposes of Part I, the Lieutenant Governor in Council may by regulation designate all or any part of the land for the purpose of implementing a system for automated information recording and retrieval and property mapping.

Automated
recording
and property
mapping in
designated
areas

16.—(1) The Director may by order fix a lower fee than that prescribed under the *Land Titles Act* or the *Registry Act* for any service that relates to land designated under this Part, and the lower fee shall be in effect for a specified period not exceeding three months from the designation of the land to which the service relates.

Temporary
fee
reduction
during
training
period
R.S.O. 1980,
cc. 230, 445

(2) The *Regulations Act* does not apply to an order made under subsection (1).

R.S.O. 1980,
c. 446, does
not apply

PART III

AMENDMENTS TO STATUTE LAW

17.—(1) Section 6 of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Statement of
consideration

6. A statement of consideration money or other consideration in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any receipt being endorsed on it.

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Statement
as evidence
for
subsequent
purchaser

7. A statement of consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof.

(3) Section 23 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . . .

(5) Subsections (1), (2), (3) and (4) do not apply to conveyances of land in the parts of Ontario designated under Part I of the *Land Registration Reform Act*, 1984 that are executed on or after the day on which the land is designated under clause 14 (a) of that Act.

18.—(1) Subsection 42 (3) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Proof that
property
not a
matrimonial
home
1984, c. . . .

(3) For the purpose of subsection (2), an affidavit of the person making the disposition or encumbrance, or, where the property is located in a part of Ontario designated under Part I of the *Land Registration Reform Act*, 1984, a statement by the person,

- (a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;
- (b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home;

- (c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled; or
- (d) verifying that the other spouse has released all rights under this Part by a separation agreement,

shall, unless the person to whom the disposition or encumbrance is made had actual notice to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home, but the affidavit or statement shall not be deemed to be sufficient proof that the property is not a matrimonial home where it is made by the attorney of the person making the disposition or encumbrance.

(2) Clause 45 (1) (f) of the said Act is repealed and the following substituted therefor:

- (f) where a false affidavit is given or a false statement is made under subsection 42 (3), direct,
 - (i) the person who swore the false affidavit or made the false statement, or
 - (ii) any person who knew at the time it was sworn or made that the affidavit or statement was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

19.—(1) Section 1 of the *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (aa) “facsimile” means an accurate reproduction of a book, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;
 - (ab) “land” means land, tenements, hereditaments and appurtenances and any interest therein;
-

(ga) "property" means land designated as a property under subsection 141a(2) or (4).

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Fee and
receiving
record

7. Upon receiving an instrument for registration or deposit, the land registrar shall record it and the fee charged in a manner approved by the Director of Land Registration.

(3) Section 59 of the said Act is amended by adding thereto the following subsection:

Payment
re surveys
for property
mapping

(3a) The Director of Land Registration may direct that all or part of the costs of a survey of land required to facilitate the inclusion of the land in a property map referred to in subsection 141a(3) be paid out of The Land Titles Survey Fund.

(4) Section 60 of the said Act is amended by adding thereto the following subsection:

Reliance
on automated
index
1984, c. . .

(4a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the parcel register is entitled to compensation from The Land Titles Assurance Fund.

(5) Section 70 of the said Act is repealed and the following substituted therefor:

Description
of registered
owner

70. Subject to section 67, no person, other than a corporation, may be shown as the registered owner of land or a charge unless the person is described by surname and by the first given name in full, followed by another given name, if any, in full.

(6) Subsection 75 (1) of the said Act is amended by striking out "books" in the fourth line and inserting in lieu thereof "records".

(7) Subsection 75 (2) of the said Act is amended by striking out "book" in the second line and inserting in lieu thereof "record".

(8) Subsection 81 (3) of the said Act is repealed and the following substituted therefor:

When
registration
complete

(3) Registration of an instrument is complete when the instrument and its entry in the proper register are certified in the prescribed manner by the land registrar, deputy or assist-

ant deputy land registrar, and the time of receipt of the instrument shall be deemed to be the time of its registration.

(9) Section 82 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to a charge or transfer of registered land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . .

(10) The said Act is amended by adding thereto the following section:

83a. The land registrar may,

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, affect or relate to an interest in land; and Land registrar may refuse registration or refrain from recording in certain cases
1984, c. . .

(b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(11) Section 93 of the said Act is amended by adding thereto the following subsection:

(5a) The authorization mentioned in subsection (5) is not required where the instrument is to be registered as a charge against land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . .

(12) The said Act is further amended by adding thereto the following section:

97a. Sections 94, 95, 96 and 97 do not apply to a charge of registered land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984, c. . .

(13) Section 109 of the said Act is amended by adding thereto the following subsection:

Exception (2) Subsection (1) does not apply to a transfer of registered
1984, c. leasehold land in a part of Ontario designated under Part I of
the *Land Registration Reform Act, 1984* that is executed on or
after the day on which the land is designated under clause 14
(a) of that Act.

(14) The said Act is further amended by adding thereto the following sections:

Application **141a.**—(1) This section applies only to land in the parts of
1984, c. Ontario designated under Part II of the *Land Registration
Reform Act, 1984*.

Properties (2) The Director of Land Registration shall, in the pre-
and property scribed manner, divide into blocks and properties any land
identifiers that is designated under Part II of the *Land Registration
Reform Act, 1984* and assign property identifiers to those
properties.

Property (3) The Director shall, in the prescribed manner, prepare
maps, etc. property maps showing all properties and prepare such other
maps as are prescribed.

Idem (4) The land registrar shall maintain property maps in the
prescribed manner and shall assign property identifiers to
properties when and in the manner specified by the Director.

Parcel (5) The land registrar shall, in the prescribed manner, cre-
register ate and maintain an index in automated form known as the
parcel register and enter every instrument that affects a prop-
erty in the parcel register under the property identifier
assigned to that property.

Other (6) The land registrar shall, in the prescribed manner,
indexes and maintain such other indexes and records as are prescribed.
records

Entry of (7) The Director of Land Registration may direct the land
earlier registrar to enter, in the prescribed manner, all instruments
instruments that were registered before the day this section comes into
force, and that belong to a category or were registered during
a period specified by the Director of Land Registration, in the
parcel register under the property identifiers for the properties
affected by the instruments.

Application **141b.**—(1) This section applies only to documents affect-
1984, c. ing land in the parts of Ontario designated under Part I of the
Land Registration Reform Act, 1984.

- (2) A document shall not be registered unless it contains, Brief description and property identifier, etc.
- (a) a reference to the parcel number, if any, of the land it affects;
 - (b) a reference to the lot, part lot or other unit on the plan or concession it affects;
 - (c) where the document deals with part of a property or part of a parcel, a registrable description of the land it affects; and
 - (d) the property identifier, if any, assigned under subsection 141a(2) or (4) to the property it affects.

(3) Subsection (2) does not apply to an instrument that is, Exceptions

- (a) a plan; or
- (b) one of a prescribed class of instruments.

(4) Clauses (2) (b) and (c) do not apply to an instrument Idem that is a discharge of charge purporting to discharge a charge completely.

(15) Section 147 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to land in the parts of Exception 1984, c. . . Ontario designated under Part II of the *Land Registration Reform Act, 1984*.

(16) Section 162 of the said Act is amended by adding thereto the following subsection:

(1a) The Lieutenant Governor in Council may make regulations, Idem

- (a) prescribing the manner in which instruments and entries in the register are to be certified at registration;
- (b) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (c) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;

- (d) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (e) requiring land registrars to assign to persons who ask to search the records of the land registry office account numbers and other identification to enable them to do so;
- (f) prescribing the manner in which instruments, books, public records and facsimiles of them are to be produced for inspection;
- (g) prescribing the manner in which copies of instruments, books and public records are to be produced and certified;
- (h) prescribing methods and standards for computer entry, storage and retrieval of information;
- (i) prescribing the manner in which land is to be divided into blocks and properties;
- (j) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (k) prescribing the manner in which property identifiers are to be assigned;
- (l) prescribing the manner in which the abstract index is to be created and maintained;
- (m) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 141a(6);
- (n) prescribing the manner in which instruments are to be entered for the purpose of subsection 141a(7);
- (o) prescribing classes of instruments for the purpose of clause 141b(3) (b);
- (p) requiring that printed copies of the parcel register relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

(17) Subsection 162 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) or (1a) may be limited to one or more land titles divisions or one or more part or parts of a land titles division or divisions. Application of regulations

(18) Section 164 of the said Act is amended by adding thereto the following subsections:

(3) Subsection (2) does not apply in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception 1984, c. . .

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed, Production of instruments, copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(19) The said Act is further amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

164a.—(1) Where a registered instrument or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the registered instrument or written record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original registered instrument or written record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(20) Subsection 165 (1) of the said Act is repealed and the following substituted therefor:

Penalty for
altering or
removing
records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan or registered instrument, or by any means or in any way adds to or takes from the contents of any book, record, plan or instrument, and any person who, without lawful authority, removes or attempts to remove any book, record, plan or instrument from the place where it is kept is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan or instrument that the person alters, removes or attempts to remove.

(21) Section 166 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. . .

(5) Subsections (1), (2), (3) and (4) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

20.—(1) The *Mortgages Act*, being chapter 296 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

8a. Sections 7 and 8 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act*, 1984 that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984, c. . .

(2) The said Act is further amended by adding thereto the following section:

38a. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with *The Short Forms of Mortgages Act*, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with this Part, is as effectual as if *The Short Forms of Mortgages Amendment Act*, 1964 had not been passed. Transitional
provision

1964, c. 110

21. Section 49 of the *Planning Act*, 1983, being chapter 1, is amended by adding thereto the following subsections:

(21a) Where a deed or transfer,

Exception
re prescribed
statements

- (a) contains a statement by the grantor, verifying that to the best of his or her knowledge and belief the deed or transfer does not contravene this section;
- (b) contains a statement by the grantor's solicitor, verifying that,
 - (i) he or she has explained the effect of this section to the grantor,
 - (ii) he or she has made inquiries of the grantor to determine that the deed or transfer does not contravene this section,
 - (iii) based on the information supplied by the grantor, to the best of the solicitor's knowledge and belief, the deed or transfer does not contravene this section, and
 - (iv) he or she is an Ontario solicitor in good standing; and
- (c) contains a statement by the grantee's solicitor, verifying that,

- (i) he or she has investigated the title to the land and, where relevant, to abutting land,
- (ii) he or she is satisfied that the record of title to the land and, where relevant, to abutting land, reveals no existing contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that has the effect of preventing the conveyance of any interest in the land,
- (iii) to the best of his or her knowledge and belief, the deed or transfer does not contravene this section, and
- (iv) he or she acts independently of the grantor's solicitor and is an Ontario solicitor in good standing; and

R.S.O. 1980,
cc. 230, 445

- (d) is registered under the *Land Titles Act* or the *Registry Act*,

any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, does not and shall be deemed never to have had the effect of preventing the conveyance of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day the deed or transfer is registered.

Search
period re
*Planning
Act, 1983*

(21b) For the purposes of the statement referred to in sub-clause (21a) (c) (ii), a solicitor is not required to investigate the registered title to the land except with respect to the time since the registration of the most recent deed or transfer affecting the same land and containing the statements referred to in clauses (21a) (a), (b) and (c).

Exempting
orders

(21c) The Minister may by order designate any part of Ontario as land to which subsection (21a) shall not apply after the day a certified copy or duplicate of the order is registered

in the proper land registry office in a manner approved by the Director of Land Registration appointed under the *Registry Act*. R.S.O. 1980,
c. 445

(21d) Every person who knowingly makes a false statement under subsection (21a) is guilty of an offence and on conviction is liable to a fine not exceeding the aggregate of the value of, Offence

(a) the land in respect of which the statement is made; and

(b) the relevant abutting land,

determined as of the day of registration of the deed or transfer containing the false statement.

22.—(1) Section 1 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

(ea) “facsimile” means an accurate reproduction of a book, instrument, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;

.

(oa) “property” means land designated as a property under subsection 20a(2) or (4).

(2) Section 16 of the said Act is amended by adding thereto the following subsections:

(3) Subsections (1) and (2) do not apply in the parts of Ontario that are designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . . .

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed, Production of
instruments,
copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

- (ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

- (i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

- (ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(3) The said Act is amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

16a.—(1) Where a registered instrument, a document deposited under Part II or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the instrument, document or record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original instrument, document or record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(4) Section 17 of the said Act is amended by adding thereto the following subsection:

(1a) Subsection (1) does not apply to an instrument or memorial affecting or relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . .

(5) Clause 19 (2) (a) of the said Act is amended by striking out “manually or mechanically” in the second line.

(6) Subsection 19 (4) of the said Act is amended by inserting after “book” in the fifth line “or a facsimile thereof”.

(7) Subsection 19 (6) of the said Act is repealed and the following substituted therefor:

(6) Where an abstract index is copied, every instrument, except an instrument to which subsection 62 (2), 51 (10) or 51 (11) applies, shall be copied, and the land registrar shall carefully preserve the original abstract index or a facsimile thereof and produce it upon demand. Instruments
to be
included
in copy of
abstract
index

(8) Section 20 of the said Act is amended by adding thereto the following subsection:

(4) Subsections (1), (2) and (3) do not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Exception
1984, c. . .

(9) The said Act is further amended by adding thereto the following section:

20a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Application
1984, c. . .

(2) The Director shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties. Properties
and property
identifiers

(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed. Property
maps, etc.

Idem

(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Abstract
index

(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the abstract index and enter every instrument that affects a property in the abstract index under the property identifier assigned to that property.

Other
indexes
and records

(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of
earlier
instruments

(7) The Director may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director, in the abstract index under the property identifiers for the properties affected by the instruments.

(10) Subsection 21 (1) of the said Act is repealed and the following substituted therefor:

Instruments
that may be
registered

(1) Except as otherwise provided in and subject to,

(a) this Act and the regulations; and

1984, c. . .

(b) in respect of instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, Part I of that Act and the regulations made thereunder,

any instrument within the meaning of clause 1 (f) and any other instrument specifically permitted to be registered under Part I of this Act may be registered.

(11) The said Act is further amended by adding thereto the following section:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

21a. The land registrar may,

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

1984, c. . .

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the

land registrar's opinion, affect or relate to an interest in land; and

- (b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(12) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . .

(13) The said Act is further amended by adding thereto the following section:

22a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Application
1984, c. . .

(2) An instrument shall not be registered unless it contains, Brief
description
and property
identifier,
etc.

- (a) a reference to the lot, part lot or other unit on the plan or concession it affects;
- (b) a registrable description of the land it affects, unless a registrable description of the same land is already recorded in the abstract index; and
- (c) the property identifier, if any, assigned under subsection 20a(2) or (4) to the property it affects.

(3) Subsection (2) does not apply to an instrument that is, Exceptions

- (a) a plan;
- (b) identified by the letters "G.R." and to be registered under subsection 18 (6);
- (c) a by-law that does not directly affect title to land;
- (d) presented for registration together with a declaration in the prescribed form made by a party to the instrument or by the party's solicitor, attorney under registered power of attorney, or heirs, executors or administrators, or, where the party is a cor-

poration, by an officer thereof, stating that the instrument affects land within the registry division, and containing the information required by subsection (2);

- (e) a judgment or order of the court or of a judge, or a certificate or certified or notarial copy of such judgment or order, presented for registration together with a declaration in the prescribed form, made by one of the parties to the action or by the party's solicitor, stating that the instrument affects land within the registry division, and containing the information required by subsection (2); or
- (f) one of a prescribed class of instruments.

Further
recording

(4) A registered instrument may be recorded or further recorded in the abstract index upon the registration of a declaration in the prescribed form made by any of the persons mentioned in clauses (3) (d) and (e).

(14) The said Act is further amended by adding thereto the following section:

Exception

25a. Sections 25 and 26 do not apply to an instrument that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

1984, c. . .

(15) Section 32 of the said Act is amended by adding thereto the following subsection:

Exception

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

1984, c. . .

(16) The said Act is further amended by adding thereto the following section:

Application

32a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

1984, c. . .

Seal of
court with
officer's
signature
suffices for
registration

(2) The seal of a court of record affixed to an instrument is sufficient evidence, for the purpose of registration, of the due execution of the instrument by the judge or the officer of the court signing it.

Execution by
corporation

(3) Where an instrument is executed by a corporation,

- (a) the corporation's seal affixed to the instrument, with the signature of an authorized person; or
- (b) the signature of an authorized person, with the person's statement that he or she has authority to bind the corporation,

are sufficient evidence, for the purpose of registration, of the due execution of the instrument by the corporation.

(17) Section 37 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. . .

(18) Section 41 of the said Act is amended by adding thereto the following subsection:

(12) Subsections (1), (2), (3), (4), (6), (7) and (10) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Where subss.
(1-4, 6, 7,
10)
do not apply
1984, c. . .

(19) Section 42 of the said Act is repealed.

(20) Subsection 43 (2) of the said Act is repealed and the following substituted therefor:

(2) An instrument shall not be registered unless every grantee who is not a corporation is described by surname and by the first given name in full, followed by another given name, if any, in full. Description
of grantee

(2a) Failure to comply with subsection (2) does not, in itself, invalidate a registered instrument. Saving

(21) Subsection 56 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate shall mention the date of registration and the registration number of, Contents

- (a) each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money; and
- (b) every other registered instrument relating exclusively to the mortgage.

(22) Section 58 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(2) Subsection (1) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of
registration
of discharge
of mortgage
predating

(3) Where a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day the land is designated under clause 14 (a) of that Act is discharged, a certificate of discharge under this Act and the regulations that complies with Part I of that Act and the regulations made thereunder is, when registered, as valid and effectual as a conveyance to the mortgagor, his heirs or assigns of his original estate in the mortgaged land or in the part thereof described in the certificate, as the case may be.

(23) Section 60 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. . .

(4a) Subsection (4) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of
certificate

(4b) The certificate when registered, if it is of payment in full of a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day on which the land is designated under clause 14 (a) of that Act, is as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

(24) Subsection 71 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 17, section 3, is repealed and the following substituted therefor:

Method

(2) The land registrar shall, immediately after becoming aware of any omission or error in recording or deleting,

- (a) notify all persons who may be adversely affected by the necessary entries, alterations or corrections; and
- (b) make, date and certify the necessary entries, alterations or corrections in the prescribed manner.

(25) Section 76 of the said Act is amended by striking out “book” in the first line.

(26) Section 77 of the said Act is repealed and the following substituted therefor:

77.—(1) Where and as the examiner of surveys directs, the land registrar, taking account of registered instruments and deposited plans, shall prepare and register a plan of an area designated by the examiner of surveys. Land registrar's compiled plan

(2) A plan prepared and registered under subsection (1) shall be known as a Land Registrar's Compiled Plan. Idem

(3) Where and as the Director directs, the land registrar, taking account of registered instruments and deposited plans, shall, New abstract index

- (a) divide an area designated by the Director into parcels for abstract purposes;
- (b) create a new heading in the abstract index for each parcel; and
- (c) record previously registered instruments and deposited documents affecting or relating to the designated area under the new headings.

(4) A parcel may include a reference to any easement in respect of which the land is the dominant or servient tenement. Easements

(27) Clause 82 (1) (d) of the said Act is amended by adding at the end thereof “but shall not assign a property identifier to the lands or alter any property identifier that has been assigned under subsection 20a(2) or (4)”.

(28) Section 90 of the said Act is repealed and the following substituted therefor:

90. Upon receiving an instrument for registration or a document or plan for deposit, the land registrar shall record it and the fee charged in a manner approved by the Director. Record of fees, etc.

(29) Clauses 91 (b), (e) and (g) of the said Act are repealed and the following substituted therefor:

- (b) see that entries and registrations are made and certified in a proper manner, that the indexes and rec- records

ords are properly kept and that any original documents are properly stored;

instruction
of land
registrar

- (g) direct the land registrar how and in what manner to do any particular act or amend or correct whatever the Director may find amiss.

(30) Subsection 95 (1) of the said Act is repealed and the following substituted therefor:

Penalty
for altering
or removing
records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan, registered instrument or deposited document or by any means or in any way adds to or takes from the contents of any book, record, plan, instrument or document, and any person who, without lawful authority, removes or attempts to remove any book, record, plan, instrument or document from the place where it is kept, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan, instrument or document that the person alters, removes or attempts to remove.

(31) Subsection 96 (1) of the said Act is amended by adding thereto the following clauses:

- (ka) prescribing methods and standards for computer entry, storage and retrieval of information;
- (pa) prescribing the manner in which entries are to be certified;
- (pb) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (pc) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;
- (pd) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (pe) requiring land registrars to assign to persons who ask to search the records of the land registry office

account numbers and other identification to enable them to do so;

- (pf) prescribing the manner in which instruments, documents, books, public records and facsimiles of them are to be produced for inspection;
- (pg) prescribing the manner in which copies of instruments, documents, books and public records are to be produced and certified;
- (ph) prescribing the manner in which land is to be divided into blocks and properties;
- (pi) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (pj) prescribing the manner in which property identifiers are to be assigned;
- (pk) prescribing the manner in which the abstract index is to be created and maintained;
- (pl) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 20a(6);
- (pm) prescribing the manner in which instruments are to be entered for the purpose of subsection 20a(7);
- (pn) prescribing classes of instruments for the purpose of clause 22a(4) (f);
- (po) requiring that printed copies of the abstract index relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act*, 1984, c. . . . be produced at prescribed times and prescribing the times at which they are to be produced.

(32) Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) may be limited to one or more registry divisions or one or more part or parts of a registry division or divisions.

Application
of regulations

(33) Section 100 of the said Act is amended by adding thereto the following subsections:

Exception
1984, c. . .

(2) Subsection (1) does not apply to a deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Requisition
to be filed

(3) Upon every deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the person making the deposit shall deliver to the land registrar a requisition in the prescribed form containing a description of the land to which the deposit relates that complies with subsection 22a(2).

(34) Subsections 101 (1) and (3) of the said Act are repealed and the following substituted therefor:

Numbering,
etc.

(1) Upon receiving a requisition under subsection 100 (1) and the documents mentioned in it, the land registrar shall cause the word "deposited" with the date and deposit number to be endorsed on the requisition.

Certificate
of deposit

(1a) Upon receiving a requisition under subsection 100 (3), the land registrar shall cause a certificate of deposit in the prescribed form to be endorsed on the requisition and every duplicate of it.

.

Entry in
abstract
index

(3) The land registrar shall enter in the abstract index against each lot, parcel or property mentioned in the requisition the words, "See Deposit No.....", and, where the requisition refers to only a part of a lot, the entry in the abstract index shall include a reference to the part of the lot.

(35) Section 102 of the said Act is amended by adding thereto the following subsection:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

(1a) The land registrar may,

(a) refuse to accept for deposit a document,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that relates to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, relate to an interest in land; and

1984, c. . .

- (b) refrain from recording a part of a deposited document relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the document does not, in the land registrar's opinion, relate to an interest in land.

(36) Section 108 of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 17, section 5, is amended by adding thereto the following subsection:

(3a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the abstract index is entitled to compensation from The Land Titles Assurance Fund, and clauses (2) (a) and (b) do not apply to the person's right to compensation.

Reliance on automated index
1984, c. . .

23. The *Short Forms of Conveyances Act*, being chapter 472 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

5. Sections 1, 2, 3 and 4 do not apply to a deed of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where ss. 1-4 do not apply
1984, c. . .

24. Section 6 of the *Short Forms of Mortgages Act*, being chapter 474 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. Sections 1, 2, 3, 4 and 5 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where ss. 1-5 do not apply
1984, c. . .

PART IV

GENERAL

25.—(1) This Act, except subsection 22 (26), comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

(2) Subsection 22 (26) shall be deemed to have come into force on the 1st day of December, 1983.

Idem

26. The short title of this Act is the *Land Registration Reform Act, 1984*.

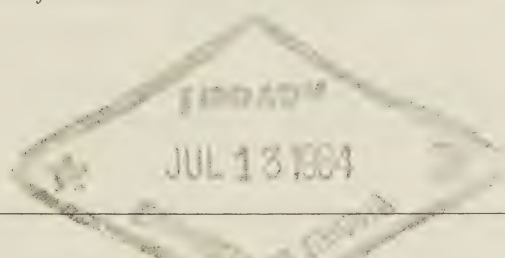
Short title

Bill 66

*(Chapter 32
Statutes of Ontario, 1984)*

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations



<i>1st Reading</i>	May 14th, 1984
<i>2nd Reading</i>	June 21st, 1984
<i>3rd Reading</i>	June 22nd, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 66

1984

An Act respecting Conveyancing Documents and Procedures and the Recording of Title to Real Property

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

PART I

DOCUMENTS

1. In this Part,

Interpretation

- (a) “charge” means a charge on land given for the purpose of securing the payment of a debt or the performance of an obligation, and includes a charge under the *Land Titles Act* and a mortgage, but does not include a rent charge;

R.S.O. 1980,
c. 230

R.S.O. 1980,
c. 445

- (b) “charge book” means the book maintained under subsection 8 (5);
- (c) “chargee” means a person in whose favour a charge is given;
- (d) “chargor” means a person who gives a charge;
- (e) “Director” means the Director of Land Registration appointed under subsection 6 (1) of the *Registry Act*;
- (f) “discharge” means a discharge of a charge and includes a cessation of charge under the *Land Titles Act* and a certificate of discharge of mortgage under the *Registry Act*;
- (g) “document” includes an instrument as defined in clause 1 (f) of the *Registry Act*;
- (h) “land” means land, tenements, hereditaments and appurtenances and any estate or interest therein;
- (i) “land registrar” means a land registrar appointed under the *Land Titles Act* or the *Registry Act*;
- (j) “prescribed” means prescribed by the regulations;
- (k) “regulations” means the regulations made under this Part;
- (l) “successor” means an heir, executor or administrator;
- (m) “transfer” means a conveyance of freehold or leasehold land and includes a deed and a transfer under the *Land Titles Act*, but does not include a lease or a charge;
- (n) “transferee” means a person in whose favour a transfer is given;
- (o) “transferor” means a person who gives a transfer.

Application
of Part

2. This Part applies to documents affecting or relating to land in the parts of Ontario that are designated by regulation.

Form of
documents
R.S.O. 1980,
cc. 230, 445

3.—(1) A document shall not be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, unless,

- (a) its form and manner of completion and execution comply with this Part and the regulations; or
- (b) it is attached to a document whose form and manner of completion and execution comply with this Part and the regulations.

(2) Despite subsection (1), a document that is executed before the day the land it affects or to which it relates is designated under clause 14 (a) may be registered under the *Registry Act* or the *Land Titles Act*, or deposited under Part II of the *Registry Act*, as if this Act had not been passed.

Transitional

R.S.O. 1980,
cc. 445, 230

(3) Failure to comply with subsection (1) does not, in itself, invalidate a document that has been registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, after the coming into force of this section.

Saving

(4) The Director may authorize the registration under the *Land Titles Act* or the *Registry Act*, or the deposit under Part II of the *Registry Act*, of a document whose form or manner of execution does not comply with this Part and the regulations.

Director may
authorize
registration
or deposit

(5) Where the form or manner of execution of a document does not comply with this Part or the regulations, the county or district court of the county or district in which the land that the document affects or to which it relates is situated may, on an application made on notice to the Director, order that the document be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*.

Court may
order
registration
or deposit

(6) An order or refusal to make an order under subsection (5) may be appealed to the Divisional Court by the applicant or by the Director.

Appeal

4.—(1) A document attached as a schedule to a document whose form is prescribed shall be deemed to be part of the document whose form is prescribed.

Incorporation
of schedules

(2) Where there is a conflict between the contents of a document whose form is prescribed and the contents of a document attached to it as a schedule, the document whose form is prescribed prevails.

Prescribed
form
governs

5.—(1) A transfer in the prescribed form shall be deemed to include the following covenants and release by the transferor, for the transferor and the transferor's successors, to and with the transferee and persons deriving title under the transferee:

Transfer:
implied
covenants

Usual
covenants
and release

1. In a transfer of freehold or leasehold land by the beneficial owner for valuable consideration, unless the transfer is expressed to be a quitclaim:
 - i. That the transferor has the right to convey the land to the transferee.
 - ii. That the transferee shall have quiet enjoyment of the land.
 - iii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
 - iv. That the transferor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
 - v. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

Covenant re
leasehold

2. In a transfer of leasehold land by the beneficial owner for valuable consideration:

That, despite anything done, omitted or permitted by the transferor, the lease or grant creating the term or estate for which the land is transferred is, at the time the transfer is given, a valid lease or grant of the property conveyed, in full force, unforfeited and unsundered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the transfer is given.

Covenants
and release
by trustee,
etc.

3. In a transfer of freehold or leasehold land by a transferor who transfers as trustee or chargee, as personal representative of a deceased person, as committee of a mentally incompetent person, or under a court order:
 - i. That the transferor has not done, omitted or permitted anything whereby the land is or

may be encumbered or whereby the transferor is hindered from giving the transfer.

- ii. That the transferor or the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the transferee's expense, as may be reasonably required.
- iii. That the transferor releases to the transferee all the transferor's existing claims on the land, except as the transfer provides and the records of the land registry office disclose.

- 4. In a transfer of freehold or leasehold land by way of settlement by a transferor who transfers as settlor: Settlor's covenant for further assurances

That the transferor and the transferor's successors and assigns will execute such further assurances of the land and do such other acts, at the expense of any person deriving title under the transfer, as may be reasonably required.

- (2) Where a transfer to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made, Multiple parties

- (a) by each transferor to the extent of the interest or share transferred by the transferor; and
 - (b) with the transferees jointly, if the transfer is made to them jointly, or with each transferee, if the transfer is made to them as tenants in common.

- (3) Where a transfer to which subsection (1) applies is given at the direction of the beneficial owner, the transfer shall be deemed to include the appropriate covenants set out in subsection (1) on the part of the beneficial owner as if the beneficial owner were the transferor. Covenant by beneficial owner directing transfer

- (4) A covenant deemed to be included in a transfer by this section may, in a schedule to the transfer, be expressly excluded or be varied by setting out the covenant, appropriately amended. Amendment of implied covenants

- (5) The benefit of a covenant deemed to be included in a transfer by this section runs with the interest of the transferee in the land transferred, and may be enforced by any person in whom the interest or part of it vests. Enforcement of covenant

Charge
not a
transfer

6.—(1) A charge does not operate as a transfer of the legal estate in the land to the chargee.

Defeasance

(2) A charge ceases to operate when the money and interest secured by the charge are paid, or the obligations whose performance is secured by the charge are performed, in the manner provided by the charge.

Rights and
remedies
preserved

(3) Despite subsection (1), a chargor and chargee are entitled to all the legal and equitable rights and remedies that would be available to them if the chargor had transferred the land to the chargee by way of mortgage, subject to a proviso for redemption.

Charge:
implied
covenants

7.—(1) A charge in the prescribed form shall be deemed to include the following covenants by the chargor, for the chargor and the chargor's successors, with the chargee and the chargee's successors and assigns:

Usual
covenants

1. In a charge of freehold or leasehold land by the beneficial owner:

- i. That the chargor or the chargor's successors will pay, in the manner provided by the charge, the money and interest it secures, and will pay the taxes assessed against the land.
- ii. That the chargor has the right to give the charge.
- iii. That the chargor has not done, omitted or permitted anything whereby the land is or may be encumbered, except as the records of the land registry office disclose.
- iv. That the chargor or the chargor's successors will insure the buildings on the land as specified in the charge.
- v. That the chargee on default of payment for the number of days specified in the charge or in the *Mortgages Act*, whichever is longer, may on giving the notice specified in the charge or required by that Act, whichever is longer, enter on and take possession of, receive the rents and profits of, lease or sell the land.
- vi. That where the chargee enters on and takes possession of the land on default as described

in subparagraph v, the chargee shall have quiet enjoyment of the land.

- vii. That the chargor or the chargor's successors will, on default, execute such assurances of the land and do such other acts, at the chargee's expense, as may be reasonably required.
 - viii. That the chargee may distrain for arrears of interest.
 - ix. That on default of payment of the interest secured by the charge, the principal money shall, at the option of the chargee, become payable.
2. In a charge of freehold land by the beneficial owner, that the chargor has a good title in fee simple to the land, except as the records of the land registry office disclose. Covenant re freehold
3. In a charge of leasehold land by the beneficial owner: Covenant re leasehold
- i. That, despite anything done, omitted or permitted by the chargor, the lease or grant creating the term or estate for which the land is held is, at the time the charge is given, a valid lease or grant of the land charged, in full force, unforfeited and unsurrendered, and that there is no subsisting default in the payment of the rents reserved by or in the performance of the covenants, conditions and agreements contained in the lease or grant at the time the charge is given.
 - ii. That the chargor or the chargor's successors will, while the moneys secured by the charge remain unpaid, pay, observe and perform all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant and will indemnify the chargee against all costs and damages incurred by reason of any non-payment of rent or non-observance or non-performance of the covenants, conditions and agreements.

(2) Where a charge to which subsection (1) applies is given by or to more than one person, the covenants deemed to be included by that subsection are made, Multiple parties

- (a) by the chargors jointly and severally, unless the charge specifies otherwise; and
- (b) with the chargees jointly, unless the moneys secured are expressly secured to them in several shares or distinct sums.

Amendment
of implied
covenants

(3) A covenant deemed to be included in a charge by subsection (1) may, in a schedule to the charge, or in a set of standard charge terms filed under subsection 8 (1) and referred to in the charge by its filing number, be expressly excluded or be varied by setting out the covenant, appropriately amended.

Enforcement
of covenant

(4) A covenant deemed to be included in a charge by subsection (1) may be enforced by a successor or assignee of the chargee.

Prescribed
terms

(5) A charge in the prescribed form shall be deemed to include the prescribed standard charge terms, unless a set of standard charge terms filed under subsection 8 (1) is referred to in the charge by its filing number.

Amendment
of prescribed
terms

(6) A prescribed standard charge term deemed to be included in a charge by subsection (5) may, in a schedule to the charge, be expressly excluded or be varied by setting out the term, appropriately varied.

Prescribed
terms to be
included in
charge book

(7) The Director shall include the prescribed standard charge terms in the charge book maintained under subsection 8 (5).

Filing of
standard
charge
terms

8.—(1) A person may file with the Director, in the prescribed manner and form, a set of standard charge terms and, with the consent of the Director, may file a set of standard charge terms in a form other than the prescribed form.

Amendment
of set of
standard
charge terms

(2) A set of standard charge terms filed under subsection (1) may be amended by filing a further set of standard charge terms under subsection (1).

Duties of
Director

(3) Where a set of standard charge terms is filed under subsection (1), the Director shall,

- (a) promptly assign a filing number to the set and advise the person who filed the set of its filing number; and
- (b) ensure that copies of the set, identified by its filing number, are provided to the land registry offices for

the parts of Ontario designated under this Part within thirty days of the day on which the set was filed.

(4) Every set of standard charge terms filed under subsection (1) shall be made available in the prescribed manner and at the prescribed fee for public inspection and copying in the land registry offices for the parts of Ontario designated under this Part on a day not later than thirty days after the day on which the set is filed with the Director.

Public
inspection

(5) The Director shall enter all sets of standard charge terms filed under subsection (1) during each calendar year in a charge book and shall as soon as possible after the end of the calendar year,

Annual
charge
book

- (a) provide copies of the charge book to the land registry offices for the parts of Ontario designated under this Part; and
- (b) make available copies of the charge book for purchase by the public at the prescribed fee.

9.—(1) A charge shall be deemed to include a set of standard charge terms filed under subsection 8 (1) if the set is referred to in the charge by its filing number.

Effect of
filing:
incorporation
by reference

(2) A term deemed to be included in a charge by subsection (1) may, in a schedule to the charge, be expressly excluded or may be varied by setting out the term, appropriately amended.

Amendment
of standard
charge terms
in individual
charge

(3) Where a charge refers to more than one set of standard charge terms by their filing numbers, the charge shall be deemed to include only the set that was filed last.

Only one
set to be
incorporated
by reference

(4) Where there is a conflict between an express term in a charge and a term deemed to be included in the charge by subsection (1), the express term prevails.

Express
term
governs

10.—(1) A charge that refers to a set of standard charge terms filed under subsection 8 (1) by the set's filing number shall not be registered before a copy of the set is available in the land registry office where the charge is to be registered, as described in subsection 8 (4).

When charge
may be
registered

(2) The fact that a charge is registered in a manner that contravenes subsection (1) does not, in itself, invalidate the registered charge.

Saving

Disclosure:
offence

11. A person named as chargee in a charge containing standard charge terms that have been filed under subsection 8 (1) who takes the charge before providing the chargor or the chargor's solicitor with a copy of the standard charge terms is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Director
may require
filing

12.—(1) Where the Director is satisfied that a charge presented for registration contains terms that should be filed under subsection 8 (1) because of the frequency of their use in charges in favour of the chargee, the Director may give the chargee notice in the prescribed form and manner that on and after a day specified by the Director, no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization.

Day
to be
specified

(2) The day specified by the Director in a notice given under subsection (1) shall be a day at least 120 days after the date of the notice.

No
registration
where filing
required

(3) Where the Director has given a notice under subsection (1), no charge in favour of the chargee that sets the terms out expressly shall be registered without the Director's authorization on or after the day specified by the Director.

Seal not
required

13.—(1) Despite any statute or rule of law, a transfer or other document transferring an interest in land, a charge or discharge need not be executed under seal by any person, and such a document that is not executed under seal has the same effect for all purposes as if executed under seal.

Guarantee

(2) Subsection (1) applies to a guarantee in a charge.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating parts of Ontario for the purposes of this Part;
- (b) prescribing forms for transfers, charges, discharges and other documents to be registered under the *Land Titles Act* or the *Registry Act*, or deposited under Part II of the *Registry Act*, and prescribing the manner of their completion and execution by individuals and corporations;
- (c) authorizing the Director to issue instructions for the completion and execution of documents;

- (d) authorizing the Director to approve forms prescribed under clause (b), and prohibiting the registration of documents in forms prescribed under clause (b) that are not approved by the Director;
- (e) prescribing standard charge terms for the purpose of subsection 7 (5);
- (f) prescribing the form and manner in which sets of standard charge terms are to be filed with the Director under subsection 8 (1) and are to be made available for public inspection and copying;
- (g) prescribing fees payable under subsections 8 (4) and (5);
- (h) prescribing the form and manner in which notice is to be given under section 12;
- (i) prescribing the form and manner in which statements in documents are to be made;
- (j) prescribing the manner in which a party to a document registered under the *Land Titles Act* or the *Registry Act* may notify the land registrar of changes in the party's address for service.

R.S.O. 1980,
cc. 230, 445

PART II

AUTOMATED RECORDING AND PROPERTY MAPPING

15. Where land is designated for the purposes of Part I, the Lieutenant Governor in Council may by regulation designate all or any part of the land for the purpose of implementing a system for automated information recording and retrieval and property mapping.

Automated
recording
and property
mapping in
designated
areas

16.—(1) The Director may by order fix a lower fee than that prescribed under the *Land Titles Act* or the *Registry Act* for any service that relates to land designated under this Part, and the lower fee shall be in effect for a specified period not exceeding three months from the designation of the land to which the service relates.

Temporary
fee
reduction
during
training
period
R.S.O. 1980,
cc. 230, 445

(2) The *Regulations Act* does not apply to an order made under subsection (1).

R.S.O. 1980,
c. 446, does
not apply

PART III

AMENDMENTS TO STATUTE LAW

17.—(1) Section 6 of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Statement of
consideration

6. A statement of consideration money or other consideration in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any receipt being endorsed on it.

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Statement
as evidence
for
subsequent
purchaser

7. A statement of consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof.

(3) Section 23 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. 32

(5) Subsections (1), (2), (3) and (4) do not apply to conveyances of land in the parts of Ontario designated under Part I of the *Land Registration Reform Act*, 1984 that are executed on or after the day on which the land is designated under clause 14 (a) of that Act.

18.—(1) Subsection 42 (3) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Proof that
property
not a
matrimonial
home
1984, c. 32

(3) For the purpose of subsection (2), an affidavit of the person making the disposition or encumbrance, or, where the property is located in a part of Ontario designated under Part I of the *Land Registration Reform Act*, 1984, a statement by the person,

- (a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;
- (b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home;

- (c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled; or
- (d) verifying that the other spouse has released all rights under this Part by a separation agreement,

shall, unless the person to whom the disposition or encumbrance is made had actual notice to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home, but the affidavit or statement shall not be deemed to be sufficient proof that the property is not a matrimonial home where it is made by the attorney of the person making the disposition or encumbrance.

(2) Clause 45 (1) (f) of the said Act is repealed and the following substituted therefor:

- (f) where a false affidavit is given or a false statement is made under subsection 42 (3), direct,
 - (i) the person who swore the false affidavit or made the false statement, or
 - (ii) any person who knew at the time it was sworn or made that the affidavit or statement was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

19.—(1) Section 1 of the *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (aa) “facsimile” means an accurate reproduction of a book, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;
- (ab) “land” means land, tenements, hereditaments and appurtenances and any interest therein;

(ga) "property" means land designated as a property under subsection 141a (2) or (4).

(2) Section 7 of the said Act is repealed and the following substituted therefor:

Fee and
receiving
record

7. Upon receiving an instrument for registration or deposit, the land registrar shall record it and the fee charged in a manner approved by the Director of Land Registration.

(3) Section 59 of the said Act is amended by adding thereto the following subsection:

Payment
re surveys
for property
mapping

(3a) The Director of Land Registration may direct that all or part of the costs of a survey of land required to facilitate the inclusion of the land in a property map referred to in subsection 141a (3) be paid out of The Land Titles Survey Fund.

(4) Section 60 of the said Act is amended by adding thereto the following subsection:

Reliance
on automated
index
1984, c. 32

(4a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the parcel register is entitled to compensation from The Land Titles Assurance Fund.

(5) Section 70 of the said Act is repealed and the following substituted therefor:

Description
of registered
owner

70. Subject to section 67, no person, other than a corporation, may be shown as the registered owner of land or a charge unless the person is described by surname and by the first given name in full, followed by another given name, if any, in full.

(6) Subsection 75 (1) of the said Act is amended by striking out "books" in the fourth line and inserting in lieu thereof "records".

(7) Subsection 75 (2) of the said Act is amended by striking out "book" in the second line and inserting in lieu thereof "record".

(8) Subsection 81 (3) of the said Act is repealed and the following substituted therefor:

When
registration
complete

(3) Registration of an instrument is complete when the instrument and its entry in the proper register are certified in the prescribed manner by the land registrar, deputy or assis-

tant deputy land registrar, and the time of receipt of the instrument shall be deemed to be the time of its registration.

(9) Section 82 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to a charge or transfer of registered land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. 32

(10) The said Act is amended by adding thereto the following section:

83a. The land registrar may,

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, affect or relate to an interest in land; and

Land registrar may refuse registration or refrain from recording in certain cases

1984, c. 32

(b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(11) Section 93 of the said Act is amended by adding thereto the following subsection:

(5a) The authorization mentioned in subsection (5) is not required where the instrument is to be registered as a charge against land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. 32

(12) The said Act is further amended by adding thereto the following section:

97a. Sections 94, 95, 96 and 97 do not apply to a charge of registered land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984, c. 32

(13) Section 109 of the said Act is amended by adding thereto the following subsection:

Exception
1984, c. 32
(2) Subsection (1) does not apply to a transfer of registered leasehold land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day on which the land is designated under clause 14 (a) of that Act.

(14) The said Act is further amended by adding thereto the following sections:

Application
1984, c. 32
141a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*.

Properties and property identifiers
(2) The Director of Land Registration shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act, 1984* and assign property identifiers to those properties.

Property maps, etc.
(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed.

Idem
(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Parcel register
(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the parcel register and enter every instrument that affects a property in the parcel register under the property identifier assigned to that property.

Other indexes and records
(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of earlier instruments
(7) The Director of Land Registration may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director of Land Registration, in the parcel register under the property identifiers for the properties affected by the instruments.

Application
1984, c. 32
141b.—(1) This section applies only to documents affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

- (2) A document shall not be registered unless it contains, Brief description and property identifier, etc.
- (a) a reference to the parcel number, if any, of the land it affects;
 - (b) a reference to the lot, part lot or other unit on the plan or concession it affects;
 - (c) where the document deals with part of a property or part of a parcel, a registrable description of the land it affects; and
 - (d) the property identifier, if any, assigned under subsection 141a (2) or (4) to the property it affects.

- (3) Subsection (2) does not apply to an instrument that is, Exceptions
- (a) a plan; or
 - (b) one of a prescribed class of instruments.

(4) Clauses (2) (b) and (c) do not apply to an instrument that is a discharge of charge purporting to discharge a charge completely. Idem

(15) Section 147 of the said Act is amended by adding thereto the following subsection:

(2) Subsection (1) does not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984*. Exception 1984, c. 32

(16) Section 162 of the said Act is amended by adding thereto the following subsection:

(1a) The Lieutenant Governor in Council may make regulations, Idem

- (a) prescribing the manner in which instruments and entries in the register are to be certified at registration;
- (b) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (c) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;

- (d) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (e) requiring land registrars to assign to persons who ask to search the records of the land registry office account numbers and other identification to enable them to do so;
- (f) prescribing the manner in which instruments, books, public records and facsimiles of them are to be produced for inspection;
- (g) prescribing the manner in which copies of instruments, books and public records are to be produced and certified;
- (h) prescribing methods and standards for computer entry, storage and retrieval of information;
- (i) prescribing the manner in which land is to be divided into blocks and properties;
- (j) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;
- (k) prescribing the manner in which property identifiers are to be assigned;
- (l) prescribing the manner in which the abstract index is to be created and maintained;
- (m) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 141a (6);
- (n) prescribing the manner in which instruments are to be entered for the purpose of subsection 141a (7);
- (o) prescribing classes of instruments for the purpose of clause 141b (3) (b);
- (p) requiring that printed copies of the parcel register relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act, 1984* be produced at prescribed times and prescribing the times at which they are to be produced.

(17) Subsection 162 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) or (1a) may be limited to one or more land titles divisions or one or more part or parts of a land titles division or divisions. Application of regulations

(18) Section 164 of the said Act is amended by adding thereto the following subsections:

(3) Subsection (2) does not apply in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. 32

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed, Production of
instruments,
copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

(i) any instrument relating to the land that is registered in the office, or a facsimile of the instrument, or

(ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(19) The said Act is further amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

164a.—(1) Where a registered instrument or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the registered instrument or written record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original registered instrument or written record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(20) Subsection 165 (1) of the said Act is repealed and the following substituted therefor:

Penalty for
altering or
removing
records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan or registered instrument, or by any means or in any way adds to or takes from the contents of any book, record, plan or instrument, and any person who, without lawful authority, removes or attempts to remove any book, record, plan or instrument from the place where it is kept is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan or instrument that the person alters, removes or attempts to remove.

(21) Section 166 of the said Act is amended by adding thereto the following subsection:

Exception

(5) Subsections (1), (2), (3) and (4) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

1984, c. 32

20.—(1) The *Mortgages Act*, being chapter 296 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

8a. Sections 7 and 8 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act*, 1984 that is executed on or after the day on which the land is designated under clause 14 (a) of that Act. Exception
1984, c. 32

(2) The said Act is further amended by adding thereto the following section:

38a. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with *The Short Forms of Mortgages Act*, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with this Part, is as effectual as if *The Short Forms of Mortgages Amendment Act*, 1964 had not been passed. Transitional
provision

1964, c. 110

21. Section 49 of the *Planning Act*, 1983, being chapter 1, is amended by adding thereto the following subsections:

(21a) Where a deed or transfer,

Exception
re prescribed
statements

(a) contains a statement by the grantor, verifying that to the best of his or her knowledge and belief the deed or transfer does not contravene this section;

(b) contains a statement by the grantor's solicitor, verifying that,

(i) he or she has explained the effect of this section to the grantor,

(ii) he or she has made inquiries of the grantor to determine that the deed or transfer does not contravene this section,

(iii) based on the information supplied by the grantor, to the best of the solicitor's knowledge and belief, the deed or transfer does not contravene this section, and

(iv) he or she is an Ontario solicitor in good standing; and

(c) contains a statement by the grantee's solicitor, verifying that,

- (i) he or she has investigated the title to the land and, where relevant, to abutting land,
- (ii) he or she is satisfied that the record of title to the land and, where relevant, to abutting land, reveals no existing contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that has the effect of preventing the conveyance of any interest in the land,
- (iii) to the best of his or her knowledge and belief, the deed or transfer does not contravene this section, and
- (iv) he or she acts independently of the grantor's solicitor and is an Ontario solicitor in good standing; and

R.S.O. 1980,
cc. 230, 445

- (d) is registered under the *Land Titles Act* or the *Registry Act*,

any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, does not and shall be deemed never to have had the effect of preventing the conveyance of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day the deed or transfer is registered.

Search
period re
*Planning
Act, 1983*

(21b) For the purposes of the statement referred to in sub-clause (21a) (c) (ii), a solicitor is not required to investigate the registered title to the land except with respect to the time since the registration of the most recent deed or transfer affecting the same land and containing the statements referred to in clauses (21a) (a), (b) and (c).

Exempting
orders

(21c) The Minister may by order designate any part of Ontario as land to which subsection (21a) shall not apply after the day a certified copy or duplicate of the order is registered

in the proper land registry office in a manner approved by the Director of Land Registration appointed under the *Registry Act*. R.S.O. 1980, c. 445

(21d) Every person who knowingly makes a false statement under subsection (21a) is guilty of an offence and on conviction is liable to a fine not exceeding the aggregate of the value of, Offence

(a) the land in respect of which the statement is made; and

(b) the relevant abutting land,

determined as of the day of registration of the deed or transfer containing the false statement.

22.—(1) Section 1 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

(ea) “facsimile” means an accurate reproduction of a book, instrument, document or record and includes a print from microfilm and a printed copy generated by or produced from a computer record;

.

(oa) “property” means land designated as a property under subsection 20a (2) or (4).

(2) Section 16 of the said Act is amended by adding thereto the following subsections:

(3) Subsections (1) and (2) do not apply in the parts of Ontario that are designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. 32

(4) Where land is in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the land registrar shall, upon receipt of the prescribed fee, if any, and a written request where a fee is prescribed, Production of
instruments,
copies, etc.

(a) produce for inspection in the office during office hours,

(i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or

- (ii) any book or public record of the office relating to the land, or a facsimile of the book or public record;

(b) supply a copy of the whole or a part of,

- (i) any instrument or document relating to the land that is registered or deposited in the office, or a facsimile of the instrument or document, or
- (ii) any book or public record of the office relating to the land, or a facsimile of the book or public record; and

(c) certify any copy supplied under clause (b),

in the prescribed manner.

(3) The said Act is amended by adding thereto the following section:

Computer
printout,
etc.,
admissible
in evidence

16a.—(1) Where a registered instrument, a document deposited under Part II or a written record of a land registry office is recorded electronically or on a magnetic medium, any writing that,

- (a) represents the instrument, document or record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the original instrument, document or record.

Idem

(2) Where a record of a land registry office is recorded electronically or on a magnetic medium and there is no original written record that corresponds to the record, any writing that,

- (a) represents the record;
- (b) is generated by or produced from the electronic record or magnetic medium; and
- (c) is in a readily understandable form,

is admissible in evidence to the same extent as the record would be if it were an original written record.

(4) Section 17 of the said Act is amended by adding thereto the following subsection:

(1a) Subsection (1) does not apply to an instrument or memorial affecting or relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act*, 1984, c. 32
Exception

(5) Clause 19 (2) (a) of the said Act is amended by striking out “manually or mechanically” in the second line.

(6) Subsection 19 (4) of the said Act is amended by inserting after “book” in the fifth line “or a facsimile thereof”.

(7) Subsection 19 (6) of the said Act is repealed and the following substituted therefor:

(6) Where an abstract index is copied, every instrument, except an instrument to which subsection 62 (2), 51 (10) or 51 (11) applies, shall be copied, and the land registrar shall carefully preserve the original abstract index or a facsimile thereof and produce it upon demand.
Instruments to be included in copy of abstract index

(8) Section 20 of the said Act is amended by adding thereto the following subsection:

(4) Subsections (1), (2) and (3) do not apply to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act*, 1984.
Exception 1984, c. 32

(9) The said Act is further amended by adding thereto the following section:

20a.—(1) This section applies only to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act*, 1984.
Application 1984, c. 32

(2) The Director shall, in the prescribed manner, divide into blocks and properties any land that is designated under Part II of the *Land Registration Reform Act*, 1984 and assign property identifiers to those properties.
Properties and property identifiers

(3) The Director shall, in the prescribed manner, prepare property maps showing all properties and prepare such other maps as are prescribed.
Property maps, etc.

Idem

(4) The land registrar shall maintain property maps in the prescribed manner and shall assign property identifiers to properties when and in the manner specified by the Director.

Abstract
index

(5) The land registrar shall, in the prescribed manner, create and maintain an index in automated form known as the abstract index and enter every instrument that affects a property in the abstract index under the property identifier assigned to that property.

Other
indexes
and records

(6) The land registrar shall, in the prescribed manner, maintain such other indexes and records as are prescribed.

Entry of
earlier
instruments

(7) The Director may direct the land registrar to enter, in the prescribed manner, all instruments that were registered before the day this section comes into force, and that belong to a category or were registered during a period specified by the Director, in the abstract index under the property identifiers for the properties affected by the instruments.

(10) Subsection 21 (1) of the said Act is repealed and the following substituted therefor:

Instruments
that may be
registered

(1) Except as otherwise provided in and subject to,

(a) this Act and the regulations; and

1984, c. 32

(b) in respect of instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, Part I of that Act and the regulations made thereunder,

any instrument within the meaning of clause 1 (f) and any other instrument specifically permitted to be registered under Part I of this Act may be registered.

(11) The said Act is further amended by adding thereto the following section:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

21a. The land registrar may,

(a) refuse to accept for registration an instrument,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

1984, c. 32

(ii) that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the

land registrar's opinion, affect or relate to an interest in land; and

- (b) refrain from recording a part of a registered instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the instrument does not, in the land registrar's opinion, affect or relate to an interest in land.

(12) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Exception
1984, c. 32

(13) The said Act is further amended by adding thereto the following section:

22a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*. Application
1984, c. 32

(2) An instrument shall not be registered unless it contains, Brief
description
and property
identifier,
etc.

- (a) a reference to the lot, part lot or other unit on the plan or concession it affects;

- (b) a registrable description of the land it affects, unless a registrable description of the same land is already recorded in the abstract index; and

- (c) the property identifier, if any, assigned under subsection 20a (2) or (4) to the property it affects.

(3) Subsection (2) does not apply to an instrument that is, Exceptions

- (a) a plan;
- (b) identified by the letters "G.R." and to be registered under subsection 18 (6);
- (c) a by-law that does not directly affect title to land;
- (d) presented for registration together with a declaration in the prescribed form made by a party to the instrument or by the party's solicitor, attorney under registered power of attorney, or heirs, executors or administrators, or, where the party is a cor-

poration, by an officer thereof, stating that the instrument affects land within the registry division, and containing the information required by subsection (2);

- (e) a judgment or order of the court or of a judge, or a certificate or certified or notarial copy of such judgment or order, presented for registration together with a declaration in the prescribed form, made by one of the parties to the action or by the party's solicitor, stating that the instrument affects land within the registry division, and containing the information required by subsection (2); or
- (f) one of a prescribed class of instruments.

Further
recording

(4) A registered instrument may be recorded or further recorded in the abstract index upon the registration of a declaration in the prescribed form made by any of the persons mentioned in clauses (3) (d) and (e).

(14) The said Act is further amended by adding thereto the following section:

Exception

1984, c. 32

25a. Sections 25 and 26 do not apply to an instrument that affects land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(15) Section 32 of the said Act is amended by adding thereto the following subsection:

Exception

1984, c. 32

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

(16) The said Act is further amended by adding thereto the following section:

Application

1984, c. 32

32a.—(1) This section applies only to instruments affecting land in the parts of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Seal of
court with
officer's
signature
suffices for
registration

(2) The seal of a court of record affixed to an instrument is sufficient evidence, for the purpose of registration, of the due execution of the instrument by the judge or the officer of the court signing it.

Execution by
corporation

(3) Where an instrument is executed by a corporation,

- (a) the corporation's seal affixed to the instrument, with the signature of an authorized person; or
- (b) the signature of an authorized person, with the person's statement that he or she has authority to bind the corporation,

are sufficient evidence, for the purpose of registration, of the due execution of the instrument by the corporation.

(17) Section 37 of the said Act is amended by adding thereto the following subsection:

(3) Subsections (1) and (2) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Exception

1984, c. 32

(18) Section 41 of the said Act is amended by adding thereto the following subsection:

(12) Subsections (1), (2), (3), (4), (6), (7) and (10) do not apply to an instrument affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Where subss.
(1-4, 6, 7,
10)

do not apply
1984, c. 32

(19) Section 42 of the said Act is repealed.

(20) Subsection 43 (2) of the said Act is repealed and the following substituted therefor:

(2) An instrument shall not be registered unless every grantee who is not a corporation is described by surname and by the first given name in full, followed by another given name, if any, in full.

Description
of grantee

(2a) Failure to comply with subsection (2) does not, in itself, invalidate a registered instrument.

Saving

(21) Subsection 56 (3) of the said Act is repealed and the following substituted therefor:

(3) The certificate shall mention the date of registration and the registration number of,

Contents

- (a) each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money; and
- (b) every other registered instrument relating exclusively to the mortgage.

(22) Section 58 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. 32

(2) Subsection (1) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of
registration
of discharge
of mortgage
predating

(3) Where a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day the land is designated under clause 14 (a) of that Act is discharged, a certificate of discharge under this Act and the regulations that complies with Part I of that Act and the regulations made thereunder is, when registered, as valid and effectual as a conveyance to the mortgagor, his heirs or assigns of his original estate in the mortgaged land or in the part thereof described in the certificate, as the case may be.

(23) Section 60 of the said Act is amended by adding thereto the following subsections:

Exception

1984, c. 32

(4a) Subsection (4) does not apply to a certificate of discharge affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Effect of
certificate

(4b) The certificate when registered, if it is of payment in full of a mortgage affecting land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and executed before the day on which the land is designated under clause 14 (a) of that Act, is as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

(24) Subsection 71 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 17, section 3, is repealed and the following substituted therefor:

Method

(2) The land registrar shall, immediately after becoming aware of any omission or error in recording or deleting,

- (a) notify all persons who may be adversely affected by the necessary entries, alterations or corrections; and
- (b) make, date and certify the necessary entries, alterations or corrections in the prescribed manner.

(25) Section 76 of the said Act is amended by striking out “book” in the first line.

(26) Section 77 of the said Act is repealed and the following substituted therefor:

77.—(1) Where and as the examiner of surveys directs, the land registrar, taking account of registered instruments and deposited plans, shall prepare and register a plan of an area designated by the examiner of surveys. Land registrar's compiled plan

(2) A plan prepared and registered under subsection (1) shall be known as a Land Registrar's Compiled Plan. Idem

(3) Where and as the Director directs, the land registrar, taking account of registered instruments and deposited plans, shall, New abstract index

- (a) divide an area designated by the Director into parcels for abstract purposes;
- (b) create a new heading in the abstract index for each parcel; and
- (c) record previously registered instruments and deposited documents affecting or relating to the designated area under the new headings.

(4) A parcel may include a reference to any easement in respect of which the land is the dominant or servient tenement. Easements

(27) Clause 82 (1) (d) of the said Act is amended by adding at the end thereof “but shall not assign a property identifier to the lands or alter any property identifier that has been assigned under subsection 20a (2) or (4)”.

(28) Section 90 of the said Act is repealed and the following substituted therefor:

90. Upon receiving an instrument for registration or a document or plan for deposit, the land registrar shall record it and the fee charged in a manner approved by the Director. Record of fees, etc.

(29) Clauses 91 (b), (e) and (g) of the said Act are repealed and the following substituted therefor:

- (b) see that entries and registrations are made and certified in a proper manner, that the indexes and rec- records

ords are properly kept and that any original documents are properly stored;

instruction
of land
registrar

- (g) direct the land registrar how and in what manner to do any particular act or amend or correct whatever the Director may find amiss.

(30) Subsection 95 (1) of the said Act is repealed and the following substituted therefor:

Penalty
for altering
or removing
records

(1) Any person, except the land registrar or other officer when entitled by law so to do, who alters any book, record, plan, registered instrument or deposited document or by any means or in any way adds to or takes from the contents of any book, record, plan, instrument or document, and any person who, without lawful authority, removes or attempts to remove any book, record, plan, instrument or document from the place where it is kept, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for each book, record, plan, instrument or document that the person alters, removes or attempts to remove.

(31) Subsection 96 (1) of the said Act is amended by adding thereto the following clauses:

- (ka) prescribing methods and standards for computer entry, storage and retrieval of information;
- (pa) prescribing the manner in which entries are to be certified;
- (pb) prescribing the form and manner in which entries in the records of land registry offices are to be made;
- (pc) prescribing the manner in which fees under this Act are to be paid, authorizing land registrars to require the prepayment of classes of fees by cash deposits and prescribing classes of fees for that purpose;
- (pd) prescribing classes of users who may pay fees under this Act by means of credit accounts rather than on the basis of prepayment or payment at the time the service is rendered;
- (pe) requiring land registrars to assign to persons who ask to search the records of the land registry office

account numbers and other identification to enable them to do so;

(pf) prescribing the manner in which instruments, documents, books, public records and facsimiles of them are to be produced for inspection;

(pg) prescribing the manner in which copies of instruments, documents, books and public records are to be produced and certified;

(ph) prescribing the manner in which land is to be divided into blocks and properties;

(pi) prescribing the manner in which property maps and other maps are to be prepared and maintained, and prescribing those other maps;

(pj) prescribing the manner in which property identifiers are to be assigned;

(pk) prescribing the manner in which the abstract index is to be created and maintained;

(pl) prescribing other indexes and records and the manner in which they are to be maintained for the purpose of subsection 20a (6);

(pm) prescribing the manner in which instruments are to be entered for the purpose of subsection 20a (7);

(pn) prescribing classes of instruments for the purpose of clause 22a (4) (f);

(po) requiring that printed copies of the abstract index relating to land in the parts of Ontario designated under Part II of the *Land Registration Reform Act*, 1984 be produced at prescribed times and prescribing the times at which they are to be produced. 1984, c. 32

(32) Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

(2) The application of any provision of the regulations made under subsection (1) may be limited to one or more registry divisions or one or more part or parts of a registry division or divisions. Application of regulations

(33) Section 100 of the said Act is amended by adding thereto the following subsections:

Exception
1984, c. 32

(2) Subsection (1) does not apply to a deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*.

Requisition
to be filed

(3) Upon every deposit relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984*, the person making the deposit shall deliver to the land registrar a requisition in the prescribed form containing a description of the land to which the deposit relates that complies with subsection 22a (2).

(34) Subsections 101 (1) and (3) of the said Act are repealed and the following substituted therefor:

Numbering,
etc.

(1) Upon receiving a requisition under subsection 100 (1) and the documents mentioned in it, the land registrar shall cause the word "deposited" with the date and deposit number to be endorsed on the requisition.

Certificate
of deposit

(1a) Upon receiving a requisition under subsection 100 (3), the land registrar shall cause a certificate of deposit in the prescribed form to be endorsed on the requisition and every duplicate of it.

.

Entry in
abstract
index

(3) The land registrar shall enter in the abstract index against each lot, parcel or property mentioned in the requisition the words, "See Deposit No.....", and, where the requisition refers to only a part of a lot, the entry in the abstract index shall include a reference to the part of the lot.

(35) Section 102 of the said Act is amended by adding thereto the following subsection:

Land
registrar
may refuse
registration
or refrain
from
recording
in certain
cases

(1a) The land registrar may,

(a) refuse to accept for deposit a document,

(i) that is wholly or partly illegible or unsuitable for microfilming, or

(ii) that relates to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* and contains or has attached to it material that does not, in the land registrar's opinion, relate to an interest in land; and

1984, c. 32

- (b) refrain from recording a part of a deposited document relating to land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* where the part of the document does not, in the land registrar's opinion, relate to an interest in land.

(36) Section 108 of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 17, section 5, is amended by adding thereto the following subsection:

(3a) A person who suffers damage because of an error in recording an instrument affecting land designated under Part II of the *Land Registration Reform Act, 1984* in the abstract index is entitled to compensation from The Land Titles Assurance Fund, and clauses (2) (a) and (b) do not apply to the person's right to compensation.

Reliance
on automated
index
1984, c. 32

23. The *Short Forms of Conveyances Act*, being chapter 472 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

5. Sections 1, 2, 3 and 4 do not apply to a deed of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where
ss. 1-4 do
not apply
1984, c. 32

24. Section 6 of the *Short Forms of Mortgages Act*, being chapter 474 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. Sections 1, 2, 3, 4 and 5 do not apply to a mortgage of land in a part of Ontario designated under Part I of the *Land Registration Reform Act, 1984* that is executed on or after the day the land is designated under clause 14 (a) of that Act.

Where
ss. 1-5 do
not apply
1984, c. 32

PART IV

GENERAL

25.—(1) This Act, except subsection 22 (26), comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

(2) Subsection 22 (26) shall be deemed to have come into force on the 1st day of December, 1983.

Idem

26. The short title of this Act is the *Land Registration Reform Act, 1984*.

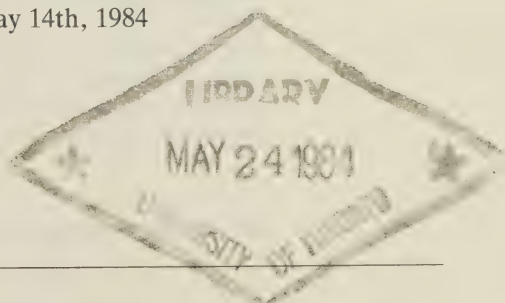
Short title

Bill 67

An Act to amend the Milk Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 14th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

SECTION 1.—Subsection 1. At present, paragraphs 3, 5, 6 and 8 of section 1 of the Act define “cheese factory”, “concentrated milk plant”, “creamery” and “dairy”, respectively. Those definitions are no longer required.

Subsection 2. The expressions “cream receiving station”, “milk receiving station” and “plant” are redefined, complementary to subsection 1.

The definition of “processing” is enlarged to include the treating of milk products and packaging and packing processes.

SECTION 2. Subsection 3 (4) of the Act now reads as follows:

(4) A majority of the members of the Commission constitutes a quorum whether or not a vacancy exists in the membership.

The subsection is re-enacted to provide that a quorum of the Milk Commission of Ontario shall be three members, one of whom must be the chairman or vice-chairman and to clarify what constitutes a decision of the Commission.

SECTION 3. Subsection 13 (4) of the Act now reads as follows:

(4) Such officers, field-men and other employees as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the Public Service Act.

The subsection is enlarged to provide that the Minister may make appointments that are not appointments under the *Public Service Act*.

SECTION 4.—Subsection 1. Subsection 20 (1) of the Act authorizes the Milk Commission to make regulations, subject to the approval of the Lieutenant Governor in Council.

The authority to make such regulations in respect of milk products is enlarged.

Subsection 2. The Commission’s authority to adopt federal regulations by reference is enlarged.

Bill 67

1984

An Act to amend the Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraphs 3, 5, 6 and 8 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Paragraphs 7, 20, 23 and 24 of the said section 1 are repealed and the following substituted therefor:

7. “cream transfer station” means premises at which cream is received for the purpose of being transported to a plant for processing;

.

20. “milk transfer station” means premises at which milk is received for the purpose of being transported to a plant for processing;

.

23. “plant” means a cream transfer station, a milk transfer station or premises in which milk or cream or milk products are processed;

24. “processing” means heating, pasteurizing, evaporating, drying, churning, freezing, packaging, packing, separating into component parts, combining with other substances by any process or otherwise treating milk or cream or milk products in the manufacture or preparation of milk products or fluid milk products.

2. Subsection 3 (4) of the said Act is repealed and the following substituted therefor:

Quorum

(4) The chairman or vice-chairman and two other members of the Commission constitute a quorum, and the decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission.

3. Subsection 13 (4) of the said Act is repealed and the following substituted therefor:

Appointments

(4) Such officers, field-men and other persons as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the *Public Service Act* or may otherwise be appointed for such purposes by the Minister.

R.S.O. 1980,
c. 418

4.—(1) Subsection 20 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2, is further amended by adding thereto the following paragraphs:

65a. regulating the inspecting, grading, packaging, packing, marking and labelling of milk products, providing for the establishment of grades, grade names and marks and specifications of containers and packages of milk products and the issue of inspection and grading certificates, and prescribing the fees payable upon inspection and grading of milk products;

65b. regulating and prohibiting the placing of any substance or foreign object in a milk product, the exposure of a milk product to any substance and the producing, processing and marketing of such milk product or a milk product that does not comply with the standards, grades, grade names or marks or specifications of containers and packages established by the regulations.

(2) Subsection 20 (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 18, section 3, is repealed and the following substituted therefor:

Adoption by
reference

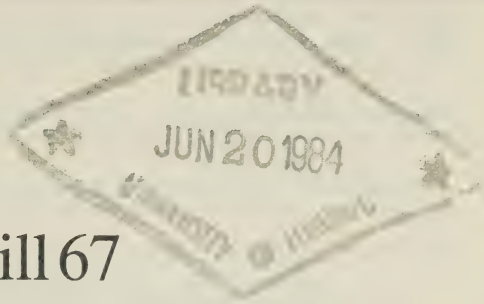
(2) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard, grade name or mark, packing, marking or labelling requirement or

R.S.C. 1970,
c.A-8

specification of containers or packages so adopted, including any such changes.

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment

6. The short title of this Act is the *Milk Amendment Act*, 1984. Short title



Bill 67

An Act to amend the Milk Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 14th, 1984
2nd Reading May 25th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. At present, paragraphs 3, 5, 6 and 8 of section 1 of the Act define “cheese factory”, “concentrated milk plant”, “creamery” and “dairy”, respectively. Those definitions are no longer required.

Subsection 2. The expressions “cream receiving station”, “milk receiving station” and “plant” are redefined, complementary to subsection 1.

The definition of “processing” is enlarged to include the treating of milk products and packaging and packing processes.

SECTION 2. Subsection 3 (4) of the Act now reads as follows:

(4) A majority of the members of the Commission constitutes a quorum whether or not a vacancy exists in the membership.

The subsection is re-enacted to provide that a quorum of the Milk Commission of Ontario shall be three members, one of whom must be the chairman or vice-chairman and to clarify what constitutes a decision of the Commission.

SECTION 3. Subsection 13 (4) of the Act now reads as follows:

(4) Such officers, field-men and other employees as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the Public Service Act.

The subsection is enlarged to provide that the Minister may make appointments that are not appointments under the *Public Service Act*.

SECTION 4.—Subsection 1. Subsection 20 (1) of the Act authorizes the Milk Commission to make regulations, subject to the approval of the Lieutenant Governor in Council.

The authority to make such regulations in respect of milk products is enlarged.

Subsection 2. The Commission’s authority to adopt federal regulations by reference is enlarged.

Bill 67

1984

An Act to amend the Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraphs 3, 5, 6 and 8 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Paragraphs 7, 20, 23 and 24 of the said section 1 are repealed and the following substituted therefor:

7. “cream transfer station” means premises at which cream is received for the purpose of being transported to a plant for processing;

.

20. “milk transfer station” means premises at which milk is received for the purpose of being transported to a plant for processing;

.

23. “plant” means a cream transfer station, a milk transfer station or premises in which milk or cream or milk products are processed;

24. “processing” means heating, pasteurizing, evaporating, drying, churning, freezing, packaging, packing, separating into component parts, combining with other substances by any process or otherwise treating milk or cream or milk products in the manufacture or preparation of milk products or fluid milk products.

2. Subsection 3 (4) of the said Act is repealed and the following substituted therefor:

Quorum

(4) The chairman or vice-chairman and two other members of the Commission constitute a quorum, and the decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission.

3. Subsection 13 (4) of the said Act is repealed and the following substituted therefor:

Appointments

R.S.O. 1980,
c. 418

R.S.C. 1970,
c. A-8

(4) Such officers, field-men and other persons as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the *Public Service Act*, but the Minister may appoint, under this Act, as a field-man or grader any person who has been appointed or designated as a grader or inspector under the *Canada Agricultural Products Standards Act*.

4.—(1) Subsection 20 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2, is further amended by adding thereto the following paragraphs:

65a. regulating the inspecting, grading, packaging, packing, marking and labelling of milk products, providing for the establishment of grades, grade names and marks and specifications of containers and packages of milk products and the issue of inspection and grading certificates, and prescribing the fees payable upon inspection and grading of milk products;

65b. regulating and prohibiting the placing of any substance or foreign object in a milk product, the exposure of a milk product to any substance and the producing, processing and marketing of such milk product or a milk product that does not comply with the standards, grades, grade names or marks or specifications of containers and packages established by the regulations.

(2) Subsection 20 (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 18, section 3, is repealed and the following substituted therefor:

Adoption by reference

R.S.C. 1970,
c. A-8

(2) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard, grade

name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages so adopted, including any such changes.

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment

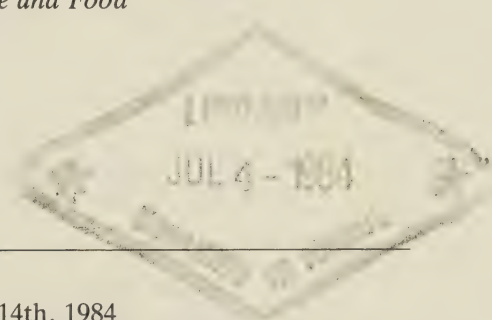
6. The short title of this Act is the *Milk Amendment Act*, 1984. Short title

Bill 67

(Chapter 25
Statutes of Ontario, 1984)

An Act to amend the Milk Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food



<i>1st Reading</i>	May 14th, 1984
<i>2nd Reading</i>	May 25th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 67

1984

An Act to amend the Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraphs 3, 5, 6 and 8 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Paragraphs 7, 20, 23 and 24 of the said section 1 are repealed and the following substituted therefor:

7. “cream transfer station” means premises at which cream is received for the purpose of being transported to a plant for processing;

.

20. “milk transfer station” means premises at which milk is received for the purpose of being transported to a plant for processing;

.

23. “plant” means a cream transfer station, a milk transfer station or premises in which milk or cream or milk products are processed;

24. “processing” means heating, pasteurizing, evaporating, drying, churning, freezing, packaging, packing, separating into component parts, combining with other substances by any process or otherwise treating milk or cream or milk products in the manufacture or preparation of milk products or fluid milk products.

2. Subsection 3 (4) of the said Act is repealed and the following substituted therefor:

Quorum

(4) The chairman or vice-chairman and two other members of the Commission constitute a quorum, and the decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission.

3. Subsection 13 (4) of the said Act is repealed and the following substituted therefor:

Appointments

R.S.O. 1980,
c. 418

R.S.C. 1970,
c. A-8

(4) Such officers, field-men and other persons as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the *Public Service Act*, but the Minister may appoint, under this Act, as a field-man or grader any person who has been appointed or designated as a grader or inspector under the *Canada Agricultural Products Standards Act*.

4.—(1) Subsection 20 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2, is further amended by adding thereto the following paragraphs:

65a. regulating the inspecting, grading, packaging, packing, marking and labelling of milk products, providing for the establishment of grades, grade names and marks and specifications of containers and packages of milk products and the issue of inspection and grading certificates, and prescribing the fees payable upon inspection and grading of milk products;

65b. regulating and prohibiting the placing of any substance or foreign object in a milk product, the exposure of a milk product to any substance and the producing, processing and marketing of such milk product or a milk product that does not comply with the standards, grades, grade names or marks or specifications of containers and packages established by the regulations.

(2) Subsection 20 (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 18, section 3, is repealed and the following substituted therefor:

Adoption by
reference

R.S.C. 1970,
c.A-8

(2) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard, grade

name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages so adopted, including any such changes.

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment

6. The short title of this Act is the *Milk Amendment Act*, 1984. Short title

4TH SESSION, 32ND LEGISLATURE, ONTARIO

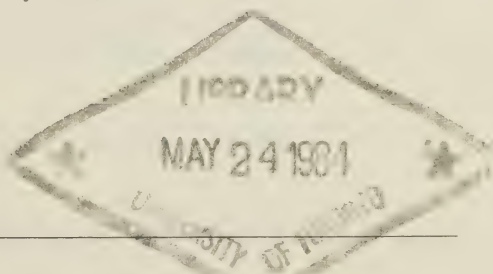
33 ELIZABETH II, 1984

Bill 68

An Act respecting the Marketing of Grain Corn

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 14th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to provide for the payment of licence fees by the producers of grain corn and the expenditure of such fees to advance the production of corn and improve the marketing of corn.

Bill 68

1984

An Act respecting the Marketing of Grain Corn

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “Association” means the Ontario Corn Producers’ Association incorporated under the *Agricultural Associations Act*; R.S.O. 1980,
c. 8
- (b) “buyer” means a person engaged in buying grain corn from producers of grain corn in Ontario;
- (c) “licence” means a licence provided for under this Act;
- (d) “Minister” means the Minister of Agriculture and Food;
- (e) “regulations” means the regulations made under this Act.

2.—(1) The purpose and intent of this Act is to provide for the financing of the Association so it may expend moneys to advance the production of corn in all its branches and improve the marketing of corn by,

Purpose and
intent of Act

- (a) encouraging and promoting improvement in all phases of corn production and marketing;
- (b) co-operating with government and agencies of government to improve the production and marketing of corn;
- (c) holding meetings for the consideration of questions relating to the corn industry;
- (d) co-operating with organizations of producers of agricultural products;

(e) collecting, arranging, assembling and disseminating information; and

(f) making representations to all levels of government and to agencies of government.

Use of
licence
fees by
Association

(2) The Association may use licence fees paid to it under this Act for defraying the expenses of the Association in doing any thing referred to in subsection (1) and in carrying out its objects.

Licences

3.—(1) Except under the authority of a licence, no person shall sell grain corn to a buyer.

Idem

(2) Every person who sells grain corn to a buyer shall be deemed to be the holder of a licence, except when in default of payment of licence fees prescribed under this Act.

Exception

(3) Subsection (1) does not apply in respect of the sale of seed corn, sweet corn or popping corn.

Refund of
licence fees

4.—(1) Every person who is the holder of a licence under section 3 may apply for a refund of any licence fees paid by him to the Association under this Act.

Idem

(2) Every application for a refund shall be made in the manner and within the time prescribed by the regulations.

Idem

(3) Where the Association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations and in any case not later than six months after receipt of the application therefor.

Producer-
buyer

(4) Any person who is a producer and a buyer is entitled in his respective capacities as a producer and as a buyer to all the rights and privileges and is subject to all the duties and obligations of a producer and of a buyer.

Idem

(5) Any person who is a producer and a buyer shall be deemed to have received in his capacity as a buyer from himself in his capacity as a producer the grain corn produced by him that he buys, and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that this Act and the regulations apply.

Recommendation
by directors
of
Association

5. Where the board of directors of the Association is of the opinion that a majority of the members of the Association are in favour thereof, the board of directors may recommend through the Minister to the Lieutenant Governor in Council

the making, amending or revoking of regulations respecting any of the matters set forth in section 6.

6.—(1) Notwithstanding section 5, the Lieutenant Governor in Council may make regulations, Regulations

- (a) fixing the amount of licence fees up to but not exceeding forty cents per tonne of any grain corn sold by a producer;
- (b) requiring persons to pay to the Association licence fees owing by them;
- (c) requiring any buyer who receives grain corn from a seller thereof to deduct, from the moneys payable to the seller, any licence fees payable by the seller to the Association, and to forward such licence fees to the Association;
- (d) providing for the recovery by the Association of licence fees by suit in any court of competent jurisdiction, and requiring persons engaged in buying or selling grain corn to account for licence fees payable to the Association;
- (e) prescribing the manner and the time within which applications for refund of licence fees shall be made and the manner in which refunds shall be made;
- (f) providing for the exemption from this Act or any or all of the regulations of any grain corn or class thereof or any person or class of persons;
- (g) prescribing forms and providing for their use.

(2) A regulation may be general or particular in its application. Scope of regulations

7. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$2,000. Offence

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

9. The short title of this Act is the *Grain Corn Marketing Act, 1984*. Short title

Bill 68

(Chapter 26
Statutes of Ontario, 1984)

An Act respecting the Marketing of Grain Corn

The Hon. D. R. Timbrell
Minister of Agriculture and Food

<i>1st Reading</i>	May 14th, 1984
<i>2nd Reading</i>	June 1st, 1984
<i>3rd Reading</i>	June 1st, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 68

1984

An Act respecting the Marketing of Grain Corn

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “Association” means the Ontario Corn Producers’ Association incorporated under the *Agricultural Associations Act*; R.S.O. 1980,
c. 8
- (b) “buyer” means a person engaged in buying grain corn from producers of grain corn in Ontario;
- (c) “licence” means a licence provided for under this Act;
- (d) “Minister” means the Minister of Agriculture and Food;
- (e) “regulations” means the regulations made under this Act.

2.—(1) The purpose and intent of this Act is to provide for the financing of the Association so it may expend moneys to advance the production of corn in all its branches and improve the marketing of corn by,

Purpose and
intent of Act

- (a) encouraging and promoting improvement in all phases of corn production and marketing;
- (b) co-operating with government and agencies of government to improve the production and marketing of corn;
- (c) holding meetings for the consideration of questions relating to the corn industry;
- (d) co-operating with organizations of producers of agricultural products;

(e) collecting, arranging, assembling and disseminating information; and

(f) making representations to all levels of government and to agencies of government.

Use of
licence
fees by
Association

(2) The Association may use licence fees paid to it under this Act for defraying the expenses of the Association in doing any thing referred to in subsection (1) and in carrying out its objects.

Licences

3.—(1) Except under the authority of a licence, no person shall sell grain corn to a buyer.

Idem

(2) Every person who sells grain corn to a buyer shall be deemed to be the holder of a licence, except when in default of payment of licence fees prescribed under this Act.

Exception

(3) Subsection (1) does not apply in respect of the sale of seed corn, sweet corn or popping corn.

Refund of
licence fees

4.—(1) Every person who is the holder of a licence under section 3 may apply for a refund of any licence fees paid by him to the Association under this Act.

Idem

(2) Every application for a refund shall be made in the manner and within the time prescribed by the regulations.

Idem

(3) Where the Association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations and in any case not later than six months after receipt of the application therefor.

Producer-
buyer

(4) Any person who is a producer and a buyer is entitled in his respective capacities as a producer and as a buyer to all the rights and privileges and is subject to all the duties and obligations of a producer and of a buyer.

Idem

(5) Any person who is a producer and a buyer shall be deemed to have received in his capacity as a buyer from himself in his capacity as a producer the grain corn produced by him that he buys, and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that this Act and the regulations apply.

Recommendation
by directors
of
Association

5. Where the board of directors of the Association is of the opinion that a majority of the members of the Association are in favour thereof, the board of directors may recommend through the Minister to the Lieutenant Governor in Council

the making, amending or revoking of regulations respecting any of the matters set forth in section 6.

6.—(1) Notwithstanding section 5, the Lieutenant Governor in Council may make regulations, Regulations

- (a) fixing the amount of licence fees up to but not exceeding forty cents per tonne of any grain corn sold by a producer;
- (b) requiring persons to pay to the Association licence fees owing by them;
- (c) requiring any buyer who receives grain corn from a seller thereof to deduct, from the moneys payable to the seller, any licence fees payable by the seller to the Association, and to forward such licence fees to the Association;
- (d) providing for the recovery by the Association of licence fees by suit in any court of competent jurisdiction, and requiring persons engaged in buying or selling grain corn to account for licence fees payable to the Association;
- (e) prescribing the manner and the time within which applications for refund of licence fees shall be made and the manner in which refunds shall be made;
- (f) providing for the exemption from this Act or any or all of the regulations of any grain corn or class thereof or any person or class of persons;
- (g) prescribing forms and providing for their use.

(2) A regulation may be general or particular in its application. Scope of regulations

7. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$2,000. Offence

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

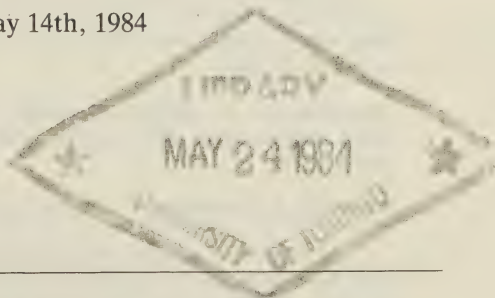
9. The short title of this Act is the *Grain Corn Marketing Act, 1984*. Short title

Bill 69

An Act to amend the Live Stock and Live Stock Products Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 14th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

SECTION 1.—Subsection 1. Clause 3 (1) (b) of the Act now reads as follows:

(1) The Commissioner shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

(b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the conditions under which the licence is issued; or

The re-enactment extends the application of the clause to the terms under which a licence is issued.

Subsection 2. The Commissioner is empowered to impose terms and conditions upon a licence.

SECTION 2. The new section provides that a licensee may apply to the Commissioner to have a term or condition of a licence varied or removed.

SECTION 3.—Subsection 1. Clause 4 (1) (b) of the Act is amended to make it apply to a contravention of the terms of a licence in the same manner as it now applies to a contravention of the conditions of a licence. The clause deals with grounds for the refusal to renew or the suspension or cancellation of a licence.

Subsection 2. Subsections 4 (2) and (3) of the Act deal with the provisional suspension of or refusal to renew a licence and the continuation of a licence pending renewal.

The grounds on which a licence may be provisionally suspended, etc., and the requirements for continuation of a licence pending renewal are extended.

SECTION 4. Subsection 5 (1) of the Act now reads as follows:

(1) Notice of a hearing by the Commissioner under section 3 or 4 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

The re-enactment of the subsection provides greater flexibility in the manner in which a notice of hearing may be given.

SECTION 5.—Subsection 1. Subsection 7 (1) of the Act now reads as follows:

(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board.

The subsection is enlarged to provide an appeal where, after a hearing, the Commissioner imposes terms and conditions upon a licence or refuses to vary a term or condition of a licence.

Subsection 2. Subsection 7 (3) of the Act now reads as follows:

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the

decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

The words being revoked are redundant. The matters that are appealable and may be determined by the Board are set out in subsection 7 (1) of the Act.

SECTION 6. Section 16 of the Act now reads as follows:

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$1,000 for any subsequent offence.

A separate offence for engaging in business as a live stock dealer without a licence therefor from the Commissioner is created and minimum fines are established.

For any other offence, the minimum fines are abolished and the maximum fines are increased.

Bill 69

1984

**An Act to amend the
Live Stock and Live Stock Products Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 3 (1) (b) of the *Live Stock and Live Stock Products Act*, being chapter 245 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the terms and conditions under which the licence is issued; or

.

(2) Section 3 of the said Act is amended by adding thereto the following subsection:

- (3) The Commissioner may impose such terms and conditions upon a licence as he considers proper. Terms and conditions

2. The said Act is amended by adding thereto the following section:

3a. Where a licensee is not satisfied with a term or condition imposed upon his licence by the Commissioner, he may apply to the Commissioner to have the term or condition varied or removed and, where the Commissioner proposes to refuse to vary or remove the term or condition, he shall hold a hearing. Variation or removal of term or condition

3.—(1) Clause 4 (1) (b) of the said Act is amended by inserting after “the” where it occurs the first time in the ninth line “terms and”.

(2) Subsections 4 (2) and (3) of the said Act are repealed and the following substituted therefor:

Provisional
suspension
or refusal
to renew

(2) Notwithstanding subsection (1), the Commissioner may, without a hearing, provisionally suspend or refuse to renew a licence where in his opinion it is necessary to do so for the immediate protection of,

- (a) the safety or health of any person or the public;
- (b) the interests of persons selling live stock or live stock products to the licensee; or
- (c) a fund for producers of live stock or live stock products established under the *Farm Products Payments Act*.

R.S.O. 1980,
c. 159

Notice of
suspension
or refusal
to renew

(3) Notice of suspension or refusal to renew under subsection (2), together with the reasons therefor, shall be given forthwith to the licensee and, as soon as is practicable thereafter, the Commissioner shall hold a hearing to determine whether the licence should be further suspended or cancelled or whether renewal of the licence should be refused.

Continuation
of licence
pending
renewal

(4) Subject to subsections (2) and (3), where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has,

- (a) applied for a renewal of his licence;
- (b) paid the prescribed fee;
- (c) where proof of financial responsibility or security is required, furnished or deposited such proof or security; and
- (d) observed or carried out the other provisions of this Act and the regulations and the terms and conditions under which the licence was issued,

his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal.

4. Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

Opportunity
to show or
achieve
compliance

(1) An applicant or licensee shall be afforded an opportunity to show or to achieve compliance before a hearing with all lawful requirements for the issue or retention of a licence.

5.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence or, after a hearing, imposes terms or conditions upon a licence or refuses to vary a term or condition of a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board. Appeal
to Board

(2) Subsection 7 (3) of the said Act is amended by striking out “to determine whether the licence should be issued, renewed, suspended or cancelled” in the third and fourth lines.

6. Section 16 of the said Act is repealed and the following substituted therefor:

16.—(1) Subject to subsection (2), every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and not more than \$5,000 for any subsequent offence. Offence

(2) Every person who engages in business as a live stock dealer without a licence therefor from the Commissioner is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 for a first offence and not less than \$5,000 for any subsequent offence. Idem

7. This Act comes into force on the day it receives Royal Assent. Commence-
ment

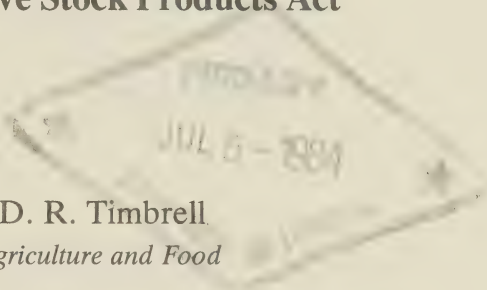
8. The short title of this Act is the *Live Stock and Live Stock Products Amendment Act, 1984*. Short title

Bill 69

*(Chapter 27
Statutes of Ontario, 1984)*

An Act to amend the Live Stock and Live Stock Products Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food



<i>1st Reading</i>	May 14th, 1984
<i>2nd Reading</i>	June 1st, 1984
<i>3rd Reading</i>	June 1st, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 69

1984

An Act to amend the Live Stock and Live Stock Products Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 3 (1) (b) of the *Live Stock and Live Stock Products Act*, being chapter 245 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the terms and conditions under which the licence is issued; or

.

(2) Section 3 of the said Act is amended by adding thereto the following subsection:

- (3) The Commissioner may impose such terms and conditions upon a licence as he considers proper.

Terms and
conditions

2. The said Act is amended by adding thereto the following section:

3a. Where a licensee is not satisfied with a term or condition imposed upon his licence by the Commissioner, he may apply to the Commissioner to have the term or condition varied or removed and, where the Commissioner proposes to refuse to vary or remove the term or condition, he shall hold a hearing.

Variation
or removal
of term or
condition

3.—(1) Clause 4 (1) (b) of the said Act is amended by inserting after “the” where it occurs the first time in the ninth line “terms and”.

(2) Subsections 4 (2) and (3) of the said Act are repealed and the following substituted therefor:

Provisional
suspension
or refusal
to renew

(2) Notwithstanding subsection (1), the Commissioner may, without a hearing, provisionally suspend or refuse to renew a licence where in his opinion it is necessary to do so for the immediate protection of,

- (a) the safety or health of any person or the public;
- (b) the interests of persons selling live stock or live stock products to the licensee; or
- (c) a fund for producers of live stock or live stock products established under the *Farm Products Payments Act*.

R.S.O. 1980,
c. 159

Notice of
suspension
or refusal
to renew

(3) Notice of suspension or refusal to renew under subsection (2), together with the reasons therefor, shall be given forthwith to the licensee and, as soon as is practicable thereafter, the Commissioner shall hold a hearing to determine whether the licence should be further suspended or cancelled or whether renewal of the licence should be refused.

Continuation
of licence
pending
renewal

(4) Subject to subsections (2) and (3), where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has,

- (a) applied for a renewal of his licence;
- (b) paid the prescribed fee;
- (c) where proof of financial responsibility or security is required, furnished or deposited such proof or security; and
- (d) observed or carried out the other provisions of this Act and the regulations and the terms and conditions under which the licence was issued,

his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal.

4. Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

Opportunity
to show or
achieve
compliance

(1) An applicant or licensee shall be afforded an opportunity to show or to achieve compliance before a hearing with all lawful requirements for the issue or retention of a licence.

5.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence or, after a hearing, imposes terms or conditions upon a licence or refuses to vary a term or condition of a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board. Appeal
to Board

(2) Subsection 7 (3) of the said Act is amended by striking out “to determine whether the licence should be issued, renewed, suspended or cancelled” in the third and fourth lines.

6. Section 16 of the said Act is repealed and the following substituted therefor:

16.—(1) Subject to subsection (2), every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and not more than \$5,000 for any subsequent offence. Offence

(2) Every person who engages in business as a live stock dealer without a licence therefor from the Commissioner is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 for a first offence and not less than \$5,000 for any subsequent offence. Idem

7. This Act comes into force on the day it receives Royal Assent. Commence-
ment

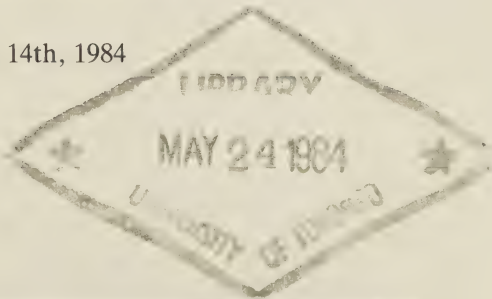
8. The short title of this Act is the *Live Stock and Live Stock Products Amendment Act, 1984*. Short title

Bill 70

An Act to amend the Education Act

Mr. Martel

1st Reading May 14th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to authorize the apportionment of school rates between public and separate schools in the case of a mixed marriage where the husband and wife own or lease rateable property jointly.

Bill 70

1984

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 125 of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3) Where more than one owner or tenant is the occupant or tenant of land, each owner or tenant shall be deemed to be a person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes and, in such case, the owners or tenants who are primarily liable for the payment of school rates may determine that the application of the rates shall be apportioned between public and separate school purposes.

Joint
ownership,
tenancy,
etc.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Education Amendment Act, 1984*.

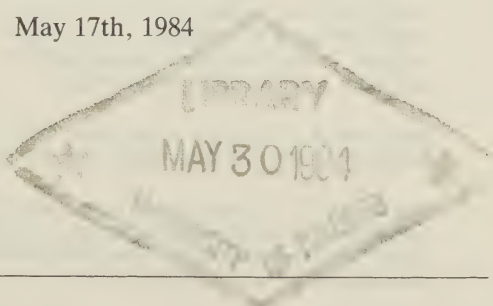
Short title

Bill 71

An Act to amend the Assessment Act

The Hon. B. Gregory
Minister of Revenue

1st Reading May 17th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

GENERAL. The purpose of the Bill is to enact proposals in the Treasurer's Budget to provide an exemption from the taxation of real property for improvements or additions to residential property commenced after May 15, 1984 for the purpose of housing, or providing amenities ancillary to the housing of, persons aged 65 or older or handicapped persons who would otherwise require care in an institution.

The Bill also increases to \$5,000 the amount by which an erection, alteration, enlargement or improvement must increase the value of the property before that erection, alteration, enlargement or improvement is included in the assessment roll.

SECTION 1.—Subsection 1. New subsection 2 (1) authorizes the Lieutenant Governor in Council to make regulations providing a mechanism for application for the exemption and describing certain types of improvements or additions or classes of persons or businesses that will not be eligible for exemption. Regulations dealing with the delegation of Ministerial powers and duties, the definition of words and expressions, and the prescription of forms are also authorized. New subsection 2 (1a) confers regulation-making power on the Minister in substantially the same terms as are set out in subsection 2 (1) of the Act, set out below as it now reads:

(1) The Minister may make regulations,

(a) establishing assessment areas and assessment regions for assessment purposes;

(b) prescribing forms for the purposes of this Act;

(c) prescribing standards and procedures to be used for the purpose of equalizing assessments under this Act;

(d) prescribing the information and returns to be furnished by an assessment commissioner to any county or to any metropolitan or regional municipality;

(e) prescribing additional information to be included in the census to be taken by the assessment commissioner.

Subsection 2. The subsection to be repealed now reads as follows:

(2a) The Lieutenant Governor in Council may make regulations prescribing for the purposes of clause 34 (3) (b) a higher rate of interest than 6 per cent.

This authority is now contained in the new clause 2 (1) (c).

Subsection 3. The subsection added provides for the designation of certain Ministry personnel to take affidavits required for the administration of the Act.

SECTION 2. This section enacts proposals in the Treasurer's Budget to provide an exemption from the taxation of real property for improvements or additions made to residential property after May 15, 1984 for the purpose of housing, or providing amenities ancillary to the housing of, persons aged 65 or older or handicapped persons who would otherwise require care in an institution.

SECTION 3. This section creates an offence where a person makes a false or deceptive statement in support of his application for exemption.

SECTION 4. This section will permit land which has been incorrectly entered in the collector's roll as exempt from taxation to be included in the roll as taxable land and will permit the taxes that would have been payable had the land been correctly entered to be collected by the municipality.

SECTION 5. This section increases from \$2,500 to \$5,000 the amount by which an erection, alteration, enlargement or improvement must increase the value of property before the erection, alteration, enlargement or improvement is assessed and included in the assessment roll. Subsection 63 (2) now reads as follows:

(2) Where the erection, alteration, enlargement or improvement of any building, structure, machinery, equipment or fixture or any portion thereof increases the value of any real property in a municipality or locality by at least \$2,500, and where such increase in value has not been, or is not liable to be, assessed pursuant to section 33, such increase in value shall be assessed and included in the assessment roll to be returned in the municipality or locality next after such increase comes to the attention of, and the amount thereof has been determined by, the Assessment Commissioner.

SECTION 6. The amendment to section 64 of the Act is complementary to the amendment to subsection 63 (2) of the Act, made by section 5 of the Bill. Section 64 now reads as follows:

64. No amendment shall be made to the assessment or collector's roll pursuant to clause 33 (a) until the cumulative value of the increase since the 23rd day of July, 1971, is at least in the sum of \$2,500 at market value or, if the assessment in the vicinity is at less than market value, at an equivalent rate.

Bill 71

1984

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 2 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 1, is repealed and the following substituted therefor:

(1) The Lieutenant Governor in Council may make regulations,

Regulations
by
Lieutenant
Governor in
Council

- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act or the regulations made under this Act;
- (b) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (c) prescribing for the purposes of clause 34 (3) (b) a higher rate of interest than 6 per cent;
- (d) prescribing the form and method of application for the exemption described in paragraph 22 of section 3 and the information and documentation required to be filed by the applicant in support of the application;
- (e) describing types or classes of improvements or additions for which no exemption under paragraph 22 of section 3 will be made;
- (f) describing classes of persons, businesses or undertakings who may not apply to receive an exemption under paragraph 22 of section 3 and to whom no exemption will be made.

Regulations
by the
Minister

(1a) The Minister may make regulations,

- (a) establishing assessment areas and assessment regions for assessment purposes;
- (b) prescribing any form that is required by this Act or the regulations under this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;
- (c) prescribing standards and procedures to be used for the purpose of equalizing assessments under this Act;
- (d) prescribing the information and returns to be furnished by an assessment commissioner to any county or to any metropolitan or regional municipality;
- (e) prescribing additional information to be included in the census to be taken by the assessment commissioner.

Retroactivity

(1b) A regulation made under this Act is, if it so provides, effective with reference to a period before it was filed.

(2) Subsection 2 (2a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 1, is repealed.

(3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 1, is further amended by adding thereto the following subsection:

Adminis-
tration
of oaths

(5) An officer or employee of the Ministry who is thereunto authorized by the Minister may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of, or incidental to, the administration of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

2. Section 3 of the said Act is amended by adding thereto the following paragraph:

Improvements
for seniors
and
handicapped
persons

22. All alterations, improvements and additions commenced after the 15th day of May, 1984 and made to a parcel of land containing an existing residential unit for the purpose of providing accommodation for, or improved facilities for the accommodation

of, a person who would, but for the accommodation or improved facilities provided, require care in an institution and who has attained sixty-five years of age or is a handicapped person, where the owner of the property applies to the Minister for the exemption and the exemption is approved by the Minister, provided that,

- i. a person who would otherwise require care in an institution and who has attained sixty-five years of age or is a handicapped person resides in the premises as his principal residence, and
- ii. the land is assessed as residential and comprises not more than three residential units,

but the alteration, improvement or addition is not exempt where the person occupying the property in which the person who has attained sixty-five years of age or the handicapped person resides is in the business of offering care to such persons.

3. Section 12 of the said Act is amended by adding thereto the following subsection:

(2a) Every person who has made, or participated in, ^{Idem} assented to or acquiesced in the making of, a false or deceptive statement in any application or supporting document required to determine eligibility for exemption from taxation under paragraph 22 of section 3 is guilty of an offence and on conviction is liable to a fine of the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$500.

4. Section 32 of the said Act is amended by adding thereto the following subsection:

(3) If any land that is liable to taxation has been entered on the collector's roll for the current year or for any part or all of either or both of the next two preceding years as exempt from taxation, and no taxes have been levied on that land, the assessor shall make any assessment necessary to correct the omission and the clerk of the municipality upon notification thereof shall enter that land as liable to taxation on the collector's roll and such taxes as would have been payable if that land had been entered in the collector's roll as property liable to tax shall be levied and collected, but no such amendment shall be made where that land has been held by any court or assessment tribunal not to be liable to taxation. ^{Property incorrectly described as exempt from taxation}

5. Subsection 63 (2) of the said Act is amended by striking out “\$2,500” in the fourth line and inserting in lieu thereof “\$5,000”.

6. Section 64 of the said Act is amended by striking out “\$2,500” in the fourth line and inserting in lieu thereof “\$5,000”.

Commence-
ment

7. This Act shall be deemed to have come into force on the 16th day of May, 1984 and applies in respect of every assessment for taxation in the year 1985 and subsequent years.

Short title

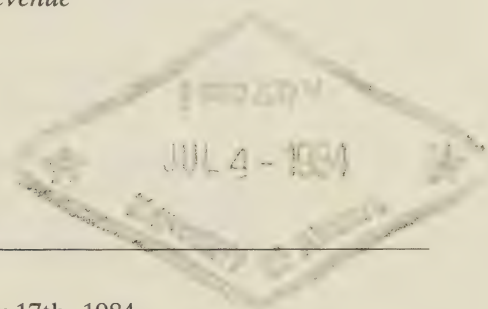
8. The short title of this Act is the *Assessment Amendment Act, 1984*.

Bill 71

(Chapter 28
Statutes of Ontario, 1984)

An Act to amend the Assessment Act

The Hon. B. Gregory
Minister of Revenue



<i>1st Reading</i>	May 17th, 1984
<i>2nd Reading</i>	May 31st, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 71

1984

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 2 (1) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 1, is repealed and the following substituted therefor:

(1) The Lieutenant Governor in Council may make regulations,

Regulations
by
Lieutenant
Governor in
Council

- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act or the regulations made under this Act;
- (b) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (c) prescribing for the purposes of clause 34 (3) (b) a higher rate of interest than 6 per cent;
- (d) prescribing the form and method of application for the exemption described in paragraph 22 of section 3 and the information and documentation required to be filed by the applicant in support of the application;
- (e) describing types or classes of improvements or additions for which no exemption under paragraph 22 of section 3 will be made;
- (f) describing classes of persons, businesses or undertakings who may not apply to receive an exemption under paragraph 22 of section 3 and to whom no exemption will be made.

Regulations
by the
Minister

(1a) The Minister may make regulations,

- (a) establishing assessment areas and assessment regions for assessment purposes;
- (b) prescribing any form that is required by this Act or the regulations under this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain;
- (c) prescribing standards and procedures to be used for the purpose of equalizing assessments under this Act;
- (d) prescribing the information and returns to be furnished by an assessment commissioner to any county or to any metropolitan or regional municipality;
- (e) prescribing additional information to be included in the census to be taken by the assessment commissioner.

Retroactivity

(1b) A regulation made under this Act is, if it so provides, effective with reference to a period before it was filed.

(2) Subsection 2 (2a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 1, is repealed.

(3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 1, is further amended by adding thereto the following subsection:

Adminis-
tration
of oaths

(5) An officer or employee of the Ministry who is thereunto authorized by the Minister may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of, or incidental to, the administration of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits.

2. Section 3 of the said Act is amended by adding thereto the following paragraph:

Improvements
for seniors
and
handicapped
persons

22. All alterations, improvements and additions commenced after the 15th day of May, 1984 and made to a parcel of land containing an existing residential unit for the purpose of providing accommodation for, or improved facilities for the accommodation

of, a person who would, but for the accommodation or improved facilities provided, require care in an institution and who has attained sixty-five years of age or is a handicapped person, where the owner of the property applies to the Minister for the exemption and the exemption is approved by the Minister, provided that,

- i. a person who would otherwise require care in an institution and who has attained sixty-five years of age or is a handicapped person resides in the premises as his principal residence, and
- ii. the land is assessed as residential and comprises not more than three residential units,

but the alteration, improvement or addition is not exempt where the person occupying the property in which the person who has attained sixty-five years of age or the handicapped person resides is in the business of offering care to such persons.

3. Section 12 of the said Act is amended by adding thereto the following subsection:

(2a) Every person who has made, or participated in, assented to or acquiesced in the making of, a false or deceptive statement in any application or supporting document required to determine eligibility for exemption from taxation under paragraph 22 of section 3 is guilty of an offence and on conviction is liable to a fine of the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$500. Idem

4. Section 32 of the said Act is amended by adding thereto the following subsection:

(3) If any land that is liable to taxation has been entered on the collector's roll for the current year or for any part or all of either or both of the next two preceding years as exempt from taxation, and no taxes have been levied on that land, the assessor shall make any assessment necessary to correct the omission and the clerk of the municipality upon notification thereof shall enter that land as liable to taxation on the collector's roll and such taxes as would have been payable if that land had been entered in the collector's roll as property liable to tax shall be levied and collected, but no such amendment shall be made where that land has been held by any court or assessment tribunal not to be liable to taxation. Property incorrectly described as exempt from taxation

5. Subsection 63 (2) of the said Act is amended by striking out "\$2,500" in the fourth line and inserting in lieu thereof "\$5,000".

6. Section 64 of the said Act is amended by striking out "\$2,500" in the fourth line and inserting in lieu thereof "\$5,000".

Commence-
ment

7. This Act shall be deemed to have come into force on the 16th day of May, 1984 and applies in respect of every assessment for taxation in the year 1985 and subsequent years.

Short title

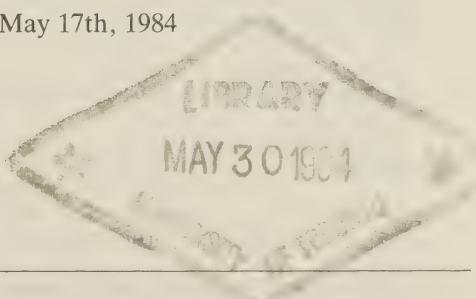
8. The short title of this Act is the *Assessment Amendment Act, 1984*.

Bill 72

An Act to amend the Corporations Tax Act

The Hon. B. Gregory
Minister of Revenue

1st Reading May 17th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of May 15, 1984, amends the *Corporations Tax Act* consequential upon the passage of amendments to the *Income Tax Act* (Canada) (herein called the "Federal Act") and provides for certain amendments to the administrative provisions of the *Corporations Tax Act* (herein called the "Ontario Act").

SECTION 1.—Subsection 1. Adds the definition of a "share-purchase tax credit" under the Federal Act to the Ontario Act, for the purposes of cross-referencing.

Subsection 2. Under clause 1 (2) (d) of the Ontario Act, if a section of the Federal Act is referred to in any other section of the Federal Act which is applicable for the purposes of the Ontario Act, the reference to the section will be ignored for the purposes of the Ontario Act, unless the reference is contained in a section of the Federal Act set out as an exception in subclause 1 (2) (d) (iv). Subsection (2) amends subclause 1 (2) (d) (iv) with respect to those sections of the Federal Act which contain references to sections of the Federal Act which will apply for the purposes of the Ontario Act.

Subclause 1 (2) (d) (iv) now reads as follows:

(iv) where subclause (i) applies, the section (except sections 12, 20, 56, 60 and 69, paragraph 95 (1) (f) and sections 138 and 248 of that Act) shall be read as if the reference to the other provision were deleted.

SECTION 2. The section adds six new subsections to section 12 of the Ontario Act for the purposes of computing the taxable income of a corporation.

New subsection 12 (9b) provides that the Minister of Revenue has discretion to determine the amount of reasonable reserves deductible by a bank in the calculation of its taxable income under the Ontario Act.

New subsection 12 (11) is consequential upon and parallels amendments to the Federal Act in order to reduce the amount of deductible research and development expenses by the amount of such expenditures the corporation has renounced in the year in order to obtain a refund of any Part VIII tax under the Federal Act which the corporation paid as a result of the issuance of shares and debentures which entitle the holder to claim a scientific research tax credit.

New subsection 12 (12) provides that if a corporation received interest on an overpayment of income tax and is required to repay that interest as a result of a subsequent reassessment, the amount of the interest that was included in its taxable income in a current or prior year but is repaid in the current year will be deductible from its taxable income in the current year.

New subsection 12 (13) parallels recent amendments to the Federal Act in order to reduce the cost amount of non-capital property which consists of shares and debt obligations, for which the corporation is entitled to claim a share-purchase tax credit or scientific research tax credit under the Federal Act, by the amount of the tax credit.

New subsections 12 (14) and (15) provide that deductible research and development expenditures and the undepreciated capital cost of depreciable property will be reduced by the amount of investment tax credits claimed, or deemed to have been claimed, by the corporation under the Federal Act with respect to the expenditures and depreciable property.

SECTION 3. The amendment adds two new subsections to section 13, consequential upon recent amendments to the Federal Act.

New subsection 13 (6) parallels recent amendments to the Federal Act to provide that the adjusted cost base of capital property of a corporation which consists of shares

and debt obligations, which entitle the holder to claim a share-purchase tax credit or a scientific research tax credit under the Federal Act, will be reduced by the amount of the tax credit.

New subsection 13 (7) provides that the adjusted cost base of capital property of the corporation will be reduced by the amount of investment tax credits claimed, or deemed to have been claimed, by the corporation under the Federal Act with respect to the property.

SECTION 4.—Subsection 1. The repeal of subsection 14 (2) of the Ontario Act is consequential upon amendments to the Federal Act (which are applicable for the purposes of the Ontario Act) which make subsection 14 (2) redundant by now permitting a deduction from income for expenses of objecting and appealing assessments of both provincial and federal income tax.

Subsection 2. The amendment provides that paragraph 59 (3.3) (f) of the Federal Act is not applicable for the purposes of the Ontario Act, by reason that the Ontario Act provides a separate method of determining a mining depletion allowance in the calculation of taxable income.

SECTION 5. The repeal of subsection 15 (2) of the Ontario Act is consequential upon amendments to the Federal Act and the repeal of subsection 14 (2) of the Ontario Act by section 4, subsection 1 of the Bill.

SECTION 6. The amendment to subsection 18 (6a) is consequential on the enactment of subsection 66 (10.4) of the Federal Act, in order that the provisions relating to joint exploration corporations remain parallel for the purposes of both the Federal and Ontario Acts.

SECTION 7. The amendment deletes the reference to a repealed paragraph of the Federal Act which defined the term “tax-paid undistributed surplus on hand” for the purposes of determining the tax effects of corporate distributions prior to 1979.

SECTION 8. The amendment to section 27 adds two new subsections relating to the calculation of the loss carry back and forward by a corporation which claims a deduction from tax under the provisions of section 33 or 33a.

New subsection 27 (5) provides that if a corporation claims a deduction from tax under either clause 33 (1) (b) or subsection 33a (1), it shall be deemed to have deducted in the calculation of its taxable income for the year the amount of all losses arising in another taxation year which the corporation is entitled to deduct in calculating its taxable income for the current year.

New subsection 27 (6) provides that if a corporation is deemed to have claimed a loss in a taxation year under subsection 27 (5), the loss may not be claimed in the computation of taxable income for any other taxation year.

SECTION 9.—Subsections 1 and 2. The effect is to remove the reference in section 32 to subsection 148 (5) of the Federal Act, and the amendments are consequential upon the repeal of subsection 148 (5) and the introduction of section 138.1 of the Federal Act with respect to the change in tax treatment of segregated funds of a life insurance company.

Subsections 3, 4 and 5. The amendments clarify the calculation of the amount of foreign investment income of a corporation which qualifies for the foreign tax credit.

Clauses 32 (1) (e) and (f) now read as follows:

(e) 15 per cent of that part of such foreign investment income that is income that is included in that portion of taxable income that remains after deducting from

such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 31; and

(f) *the deficiency, if any, between,*

(i) *that portion of the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause (e), that was not deducted, by virtue of subsection 20 (12) of the Income Tax Act (Canada) for the purposes of that Act or for the purposes of this Act by virtue of that subsection as made applicable by section 12 of this Act, in computing the corporation's income for the year, and*

(ii) *the foreign tax credit allowed for the taxation year in respect of such foreign investment income under subsection 126 (1) of the Income Tax Act (Canada).*

SECTION 10.—Subsection 1. The amendment to subsection 33 (1) provides that where a corporation claims a deduction from tax payable under section 33a, it may not claim a deduction from tax under subsection 33 (1).

Subsection 2. New subsection 33 (2c) provides that where a corporation claims a deduction from tax under subsection 33 (1), 33a(1) or 34 (1), the amount of the tax reduction shall be calculated by reference to the corporation's taxable income determined for the purposes of the Federal Act, adjusted to take into account only losses of other taxation years actually deducted by the corporation in the calculation of taxable income for the year for the purposes of the Ontario Act.

Subsection 3. The re-enactment of subsection 33 (5) of the Ontario Act adds a reference to the new deduction from tax introduced by section 11 of the Bill in the definition of "tax otherwise payable under this Part" in order to clarify the order in which deductions from Part II tax may be claimed.

SECTION 11. The addition of section 33a to the Ontario Act implements the Treasurer's Budget proposal to continue the current "tax holiday" after May 12, 1985, for new corporations, incorporated after the 13th day of May, 1982, which carry on a new active business, by providing for a 15 per cent deduction from tax on the first \$200,000 of taxable income earned each year during the first three taxation years of the corporation.

SECTION 12. The amendments to subsection 34 (2) clarify that a corporation which qualifies for a tax deduction under subsection 33 (1) by reason of carrying on a non-qualifying business in the year does not also qualify for the 1 per cent Ontario tax credit under subsection 34 (1) for profits from manufacturing and processing, mining, farming, fishing or logging, in accordance with the existing intention in the Ontario Act.

SECTION 13.—Subsection 1. The amendment to subsection 41 (2) of the Ontario Act, which relates to non-resident-owned investment corporations, is consequential upon and parallels recent amendments to the Federal Act permitting a more favourable period during which losses of a corporation may be carried forward and back.

Subsection 2. Amends the references in subsection 41 (3) to sections of the Federal Act applicable for the purposes of the computation of income of a non-resident-owned investment corporation, consequential upon the repeal in the Federal Act of the concepts of 1971 undistributed income on hand and 1971 capital surplus on hand, and to clarify that this type of corporation will not be considered to be either a Canadian or private corporation and to parallel the provisions in the Federal Act with respect to the payment of capital gains dividends out of the capital gains dividend account of a non-resident-owned investment corporation.

SECTION 14. The amendment clarifies the application, for the purposes of the Ontario Act, of subsection 149 (10) of the Federal Act, which relates to the taxation of corporations which have ceased to be exempt from tax.

SECTIONS 15 and 16. The amendments are consequential upon recent amendments to the Federal Act and clarify that capital gains reserves deducted by a corporation in the computation of its income for tax purposes shall be included in the paid-up capital of the corporation for the purposes of Part III (capital) tax in accordance with existing legislative intent, even if the reserve relates to an exchange of capital property referred to in section 44 of the Federal Act.

SECTION 17. The re-enactment of subsection 61 (3) clarifies that where the “taxable paid-up capital” of a corporation is determined for the purposes of section 61, the amount shall be calculated in accordance with the provisions of Division B of Part III of the Ontario Act, whether or not the calculation is made with respect to a corporation subject to tax.

SECTION 18. The amendments ensure that where a corporation which was originally exempt from liability for Part II (income) tax under section 49 becomes taxable, it will cease to qualify for an exemption from Part III (capital) tax.

SECTION 19. The re-enactment of subsection 70 (9) continues the present legislative policy of requiring a corporation which has paid no income tax on its first \$200,000 of taxable income in any year, by reason of the current “tax holiday” under clause 33 (1) (b) or the new three year deduction from tax under subsection 33a(1), to calculate its tax instalments, first instalment base and second instalment base under the Ontario Act for those years in which it will not obtain either of these deductions from tax as if the corporation had obtained a deduction from tax under clause 33 (1) (a), and not clause 33 (1) (b) or subsection 33a(1), in order that any required tax instalments will better approximate the corporation’s liability for Part II (income) tax.

SECTION 20.—Subsections 1, 2 and 3. These amendments are consequential upon the introduction of the concept of “farm losses” in the Federal Act.

Subsection 4. The re-enactment of clause 73 (7) (b) increases the time period during which the Minister may issue a reassessment of tax if a corporation has carried losses forward or back, and is consequential upon the increase in the time period during which losses of a corporation may be carried back and forward for application in the determination of taxable income of another year.

SECTION 21.—Subsection 1. The amendment extends the time period for filing a notice of objection to a tax assessment to 180 days from 90 days.

Subsection 2. The re-enactment of subsection 77 (5) is consequential upon the re-enactment of clause 73 (7) (b) by section 20, subsection 4 of the Bill.

SECTION 22. The re-enactment of section 84 enlarges the time period during which a corporation may request an extension of time for filing a notice of objection to an assessment to one year after the date of mailing of the assessment, thereby permitting a corporation to request an extension of time after the expiration of the time period for filing the notice of objection.

SECTION 23.—Subsection 1. The amendment is consequential upon the establishment of the Tax Court of Canada which has assumed the functions of the Tax Review Board.

Subsection 2. The re-enactment of subsection 85 (4) is consequential upon the re-enactment of clause 73 (7) (b) by section 20, subsection 4 of the Bill.

SECTION 24. The re-enactment of subsection 86 (4) confirms that authority to enter and search shall be granted only where the Minister has reasonable and probable grounds for the belief that a contravention of the Ontario Act or regulations has occurred, or is

likely to occur and where a judge of the Supreme Court, on an application supported by information under oath, approves the authorization.

SECTION 25.—Subsection 1. The re-enactment of subsection 93 (1) parallels the provisions of the Federal Act in permitting garnishment in the case where a person will become indebted within 90 days to a corporation which owes tax under the Ontario Act.

Subsection 2. The effect of the subsections added is to adopt two garnishment provisions in the Federal Act, permitting the garnishment of loan funds to be advanced to a corporate borrower which owes tax under the Ontario Act, and providing that a garnishment may apply to future as well as current periodic payments to be made by a person to a corporation which owes tax under the Ontario Act.

Subsections 3 and 4. These amendments are consequential upon the enactment of new subsections 93 (1a) and (1b) by subsection 2 of this section of the Bill to continue to hold liable any person who fails to comply with a garnishment.

Subsection 93 (3) now reads as follows:

(3) Every person who has discharged any liability to a corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer of Ontario, whichever is the lesser.

SECTION 26. The enactment of section 93a parallels recent amendments to the Federal Act to permit the equivalent of a garnishment, on account of taxes owing, of moneys seized by the police, in the course of a criminal proceeding, from a corporation which owes tax under the Ontario Act.

SECTION 27. Three new sections are added to the Ontario Act.

Section 94a confirms that the Minister may accept security for the payment of taxes owing under the Ontario Act.

Section 94b confirms that the Minister may collect from a corporation the reasonable costs incurred by the Minister in collecting the amount of taxes owing by the corporation under the Ontario Act when the corporation fails to pay the debt within the statutory time period.

Section 94c confirms that the Minister may acquire an interest in property belonging to a corporation which owes tax under the Ontario Act in the course of or as a result of any legal proceedings taken to collect a tax debt owed by the corporation.

SECTION 28. The amendment parallels current provisions in the Federal Act and the *Retail Sales Tax Act*, and requires that any receiver of a corporation, who is required to file a tax return for the corporation, shall pay the tax owing by the corporation out of the property of the corporation held by the receiver, prior to distribution to other creditors.

SECTION 29. The amendment clarifies that no person may sell any property of a corporation without notice to the Minister where the corporation is in default of paying the amount of a tax assessment for a period of at least three years.

Subsection 96 (1) now reads as follows:

(1) Where a corporation has failed to pay taxes, interest and penalties or any of them imposed by this Act for a period of more than three years from the date of mailing of the notice of assessment provided by subsection 73 (5), no person shall sell any capital assets of the corporation unless he has given written notice by registered letter to the Minister not less than ten days before the date of the sale.

Bill 72

1984

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (aa) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 29, section 1, is amended by adding thereto the following subclause:

(ii) paragraph 127.2 (6) (a).

(2) Subclause 1 (2) (d) (iv) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 1, is repealed and the following substituted therefor:

(iv) where subclause (i) applies, the section (except sections 12, 12.2 and 20, subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56, 60 and 88, paragraphs 95 (1) (f) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), section 138, paragraph 138.1 (1) (k) and section 248 of that Act) shall be read as if the reference to the other provision were deleted.

2. Section 12 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 3, 1982, chapter 19, section 1 and 1983, chapter 29, section 2, is further amended by adding thereto the following subsections:

(9b) In the application of section 26 of the *Income Tax Act* (Canada) for the purposes of this Act, each reference therein to the “Minister of Finance” shall be deemed to be a reference to the Minister of Revenue, and the reasonable requirements of a bank shall be determined in the prescribed manner.

Banks
R.S.C. 1952,
c. 148

Scientific
research
expenditures
R.S.C. 1952,
c. 148

(11) In the application of paragraph 37 (1) (g) of the *Income Tax Act* (Canada) for the purposes of this Act,

- (a) clause 1 (2) (d) of this Act does not apply; and
- (b) the aggregate of the amounts determined under paragraph 37 (1) (g) of the *Income Tax Act* (Canada) applies for the purposes of the application of that paragraph under this Act.

Interest
repayments

(12) Paragraph 20 (1) (II) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act and in lieu thereof there may be deducted the amount of interest paid by a corporation to the Receiver General of Canada or to the Treasurer or other government authority of a Province, to the extent that,

- (a) the interest was previously received by, or applied to a liability of the corporation, in respect of an overpayment made on account of tax payable, pursuant to the provisions of an Act of the Parliament of Canada or the Legislature of a Province imposing a tax on the income or profits of the corporation;
- (b) the interest was included in computing the income of the corporation from a business or property for the purposes of this Act; and
- (c) the corporation was required to repay the interest as a result of a subsequent determination that the amount upon which the interest was calculated was not an overpayment of tax.

Idem
R.S.C. 1952,
c. 148

(13) Subsections 127.2 (8) and 127.3 (6) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act in the determination of the cost of property other than capital property, including shares, debt obligations and rights, and in the determination of any amount to be included in the income of the corporation as a result of any adjustments to the cost of the property under this subsection.

Deemed
government
assistance

(14) Notwithstanding clause 1 (2) (d), in the application of subsection 13 (7.1) of the *Income Tax Act* (Canada) for the purposes of this Act, all amounts deducted under subsection 127 (5) or (6) of that Act in respect of depreciable property, or deemed to have been deducted in respect of depreciable property under subsection 127 (5) of that Act by operation of subsection 127.1 (3) or 192 (10) of that Act, shall, for the purposes of this Act, be deemed to be assistance received by the corporation before that time from a government.

(15) Notwithstanding clause 1 (2) (d), in the application of subsection 37 (1) of the *Income Tax Act* (Canada) for the purposes of this Act, all amounts deducted under subsection 127 (5) of that Act, or deemed to have been deducted under subsection 127 (5) by operation of subsection 127.1 (3) or 192 (10) of that Act in the application of subsection 37 (1) for the purposes of that Act, shall be deducted in the application of paragraph 37 (1) (e) of that Act for the purposes of this Act.

Reduction of scientific research expenditures
R.S.C. 1952, c. 148

3. Section 13 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 3, is further amended by adding thereto the following subsections:

(6) Subsections 127.2 (8) and 127.3 (6) of the *Income Tax Act* (Canada) apply in the determination of the cost of and capital gain from the disposition of capital property which includes shares, debt obligations and rights.

Idem

(7) Notwithstanding clause 1 (2) (d), in the application of paragraph 53 (2) (k) of the *Income Tax Act* (Canada) for the purposes of this Act, all amounts deducted under subsection 127 (5) or (6) of that Act, or deemed to have been deducted under subsection 127 (5) by operation of subsection 127.1 (3) or 192 (10) of that Act in the application of paragraph 53 (2) (k) for the purposes of that Act, shall be deemed to be assistance received by the corporation before that time from a government.

Deemed government assistance
R.S.C. 1952, c. 148

4.—(1) Subsection 14 (2) of the said Act is repealed.

(2) Clause 14 (3) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 4, is amended by striking out “paragraph (3.2) (a)” in the second line and inserting in lieu thereof “paragraphs (3.2) (a) and (3.3) (f)”.

5. Subsection 15 (2) of the said Act is repealed.

6. Subsection 18 (6a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is amended by striking out “and (10.3)” in the first line and inserting in lieu thereof “(10.3) and (10.4)”.

7. Subsection 23 (5) of the said Act is amended by striking out “paragraphs 89 (1) (g) and (k)” in the second and third lines and inserting in lieu thereof “paragraph 89 (1) (g)”.

8. Section 27 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 10, is further amended by adding thereto the following subsections:

Idem

(5) Where a corporation claims a deduction under clause 33 (1) (b) or subsection 33a (1) from tax otherwise payable in a taxation year, the corporation shall be deemed to have deducted, in the computation of its taxable income for that year, except for the purposes of clause 33 (2c) (b), the amount of all losses deductible under subsection 111 (1) of the *Income Tax Act* (Canada), as made applicable by subsection (1), which were not deducted nor deemed by this subsection to have been deducted in the computation of taxable income for any preceding taxation year.

R.S.C. 1952,
c. 148

Idem

(6) Where, under subsection (5),

- (a) a corporation;
- (b) a predecessor corporation of the corporation, within the meaning of section 87 of the *Income Tax Act* (Canada); or
- (c) a subsidiary of the corporation, prior to a winding-up of the subsidiary to which the rules in subsection 88 (1) of the *Income Tax Act* (Canada) apply,

has been deemed to have deducted a loss in the computation of its taxable income for a taxation year, the amount of such loss shall not be deducted by the corporation in the computation of its taxable income for any other taxation year.

9.—(1) Subclause 32 (1) (a) (ii) of the said Act is repealed.

(2) Clause 32 (1) (d) of the said Act is repealed and the following substituted therefor:

- (d) the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as a “foreign tax credit”, with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income,

R.S.C. 1952,
c. 148

(3) Clause 32 (1) (e) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 13, is repealed and the following substituted therefor:

- (e) 15 per cent of the amount determined by multiplying such foreign investment income by the Ontario allocation factor for the taxation year; and

(4) Clause 32 (1) (f) of the said Act is repealed and the following substituted therefor:

- (f) the amount determined by applying the Ontario allocation factor for the taxation year to the deficiency, if any, between,

- (i) that portion of the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of such foreign investment income, that was not deducted, by virtue of subsection 20 (12) of the *Income Tax Act* (Canada) for the purposes of that Act or for the purposes of this Act by virtue of that subsection as made applicable by section 12 of this Act, in computing the corporation's income for the year, and

- (ii) the foreign tax credit allowed for the taxation year in respect of such foreign investment income under subsection 126 (1) of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

(5) Section 32 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 13, is further amended by adding thereto the following subsection:

- (3) For the purposes of this section, the Ontario allocation factor for the taxation year is the ratio that,

Ontario
allocation
factor

- (a) that portion of the corporation's taxable income not deemed to have been earned in jurisdictions outside of Ontario for the purposes of section 31,

is to,

- (b) the corporation's taxable income.

10.—(1) Subsection 33 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 2 and amended by 1983, chapter 29, section 14, is further amended by inserting after "year" in the third line "has not claimed a deduction under subsection 33a (1) but".

(2) Section 33 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 19, section 2 and 1983, chapter 29, section 14, is further amended by adding thereto the following subsection:

Adjustment
to taxable
income

R.S.C. 1952,
c. 148

(2c) For the purposes of determining the amount of any deduction for a taxation year under subsection 33 (1), 33a (1) or 34 (1) from the tax otherwise payable under this Part, the amount of the corporation's taxable income for the year for the purposes of paragraph 125 (1) (b) of the *Income Tax Act* (Canada) shall be deemed, for the purposes of the application of that paragraph to subsections 33 (2), 33a (2) and 34 (2), to be,

(a) the aggregate of,

(i) the amount of the corporation's taxable income for the year for the purposes of the *Income Tax Act* (Canada), and

(ii) the amount of losses deducted under section 111 of the *Income Tax Act* (Canada) by the corporation in the computation of its taxable income for the year for the purposes of that Act,

minus,

(b) the amount of losses deducted by the corporation under section 111 of the *Income Tax Act* (Canada), as made applicable by subsection 27 (1), in the computation of its taxable income for the year for the purposes of this Act.

(3) Subsection 33 (5) of the said Act is repealed and the following substituted therefor:

Interpretation

(5) In this section and section 33a, "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 31 and 32, but before making any deduction under this section or section 33a, whichever is applicable, or section 34.

11. The said Act is amended by adding thereto the following section:

New
enterprise
incentive

33a.—(1) There may be deducted from the tax otherwise payable under this Part, for the first, second or third taxation year of a corporation that was incorporated after the 13th day

of May, 1982, an amount equal to 15 per cent of the amount determined under subsection (2), if the corporation is eligible to claim and has claimed, with respect to the taxation year, a deduction under subsection 125 (1) of the *Income Tax Act* (Canada). R.S.C. 1952,
c. 148

(2) For the purposes of subsection (1), the amount determined under this subsection is, Idem

- (a) that proportion of the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) of the *Income Tax Act* (Canada) for the taxation year, not exceeding \$200,000,

that,

- (b) the amount of that portion of its taxable income for the taxation year that is deemed to have been earned in Ontario, measured in accordance with paragraph 124 (4) (a) of the *Income Tax Act* (Canada), R.S.C. 1952,
c. 148

bears to,

- (c) the total amount of the portions of its taxable income for the taxation year that are deemed to have been earned in the provinces of Canada, measured in accordance with paragraph 124 (4) (a) of the *Income Tax Act* (Canada).

(3) Notwithstanding subsection (1), a corporation is not eligible for a deduction for the year under subsection (1) if it, or any predecessor corporation thereof within the meaning of section 87 of the *Income Tax Act* (Canada), at any time since the date of its incorporation, Eligibility

- (a) was related to any other corporation;
- (b) carried on a non-qualifying business in Canada;
- (c) carried on an active business by reason of being a member of a partnership;
- (d) was a beneficiary of a trust;
- (e) carried on an active business by reason of being a co-venturer in a joint venture with any other corporation;

- (f) has carried on an active business by reason of having acquired (by purchase or otherwise) or leased property from another corporation (hereinafter referred to as the "vendor") in respect of which, it, any of its shareholders, or any persons related to it or its shareholders, beneficially owned at any time, directly or indirectly, more than 10 per cent of the issued shares of any class of the capital stock of the vendor; or
- (g) has carried on an active business by reason of having acquired (by purchase or otherwise) or leased property in a manner prescribed by regulation or has engaged in any activities prescribed by regulation.

Idem

(4) A corporation shall not be entitled to a deduction under subsection (1) for the year if, as a result of a transaction or an event, or a series of transactions or events, property of a business has been transferred, or has been deemed to have been transferred, either directly or indirectly, to the corporation, and it is reasonable for the Minister to believe that one of the principal purposes of the transfer or deemed transfer is to enable a corporation to claim a deduction from tax under subsection (1) that would not otherwise be allowed.

Idem

(5) A corporation shall not be entitled to a deduction under subsection (1) for the year if, as a result of a disposition, a deemed disposition or a series of dispositions of shares of any corporation, it is reasonable for the Minister to believe that one of the principal purposes of the disposition or deemed disposition is to enable a corporation to claim a deduction from tax under subsection (1) to which it would not otherwise be entitled.

Non-qualifying business

(6) For the purposes of this section, a "non-qualifying business" means a business, other than a personal services business, which is,

- (a) the professional practice of an accountant, dentist, lawyer, medical doctor, veterinarian or chiropractor;
- (b) a business of providing services if more than 66 2/3 per cent of the gross revenue for the year of that business derived from services,
 - (i) is derived from services provided to, or performed for or on behalf of, one entity, and

- (ii) can reasonably be attributed to services performed by persons who are specified shareholders of the corporation or persons related thereto,

unless the corporation employs in the business throughout the year more than five full-time employees who are not specified shareholders of the corporation or persons related thereto; or

- (c) a business the principal purpose of which is to provide managerial, administrative, financial, maintenance or other similar services, to lease property (other than real property), or to provide any such services and to lease property (other than real property), to one or more businesses connected at any time in the year with the corporation.

(7) For the purposes of subsection (6),

Interpretation

- (a) “business connected” has the meaning ascribed thereto by paragraph 125 (9) (a) of the *Income Tax Act* (Canada) as that paragraph read on the 1st day of January, 1984; R.S.C. 1952,
c. 148
- (b) “specified shareholder” has the meaning ascribed thereto by paragraph 125 (9) (c) of the *Income Tax Act* (Canada) as that paragraph read on the 1st day of January, 1984.

12.—(1) Clause 34 (2) (a) of the said Act is repealed and the following substituted therefor:

- (a) the amount, if any, by which the corporation’s eligible Canadian profits for the year exceeds,
 - (i) the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) of the *Income Tax Act* (Canada) for the taxation year by a corporation to which subsection 125 (1) of that Act applies, and R.S.C. 1952,
c. 148
 - (ii) the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) of the *Income Tax Act* (Canada) for the taxation year by a corporation to which subsection 125 (1.1) of that Act applies; and

(2) Subclause 34 (2) (b) (i) of the said Act is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148

- (i) the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) of the *Income Tax Act* (Canada) for the taxation year by a corporation to which subsection 125 (1) of that Act applies,
- (ia) the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) of the *Income Tax Act* (Canada) for the taxation year by a corporation to which subsection 125 (1.1) of that Act applies.

13.—(1) Subsection 41 (2) of the said Act is amended by striking out “the taxation year immediately following” in the fourth line and inserting in lieu thereof “a taxation year following”.

(2) Subsection 41 (3) of the said Act is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148, s. 133
(7.1, 7.2),
(8) (b, c) and
s. 134
applicable

(3) The provisions of subsections 133 (7.1) and (7.2), paragraphs 133 (8) (b) and (c) and section 134 of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

14. Section 49 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 9 and 1983, chapter 29, section 16, is further amended by adding thereto the following subsection:

Idem

(6) In the application of subsection 149 (10) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to “this Part” shall be deemed to be a reference to Part II of this Act.

15. Subclause 53 (1) (c) (ii) of the said Act is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148

- (ii) subparagraphs 40 (1) (a) (iii) and 44 (1) (e) (iii) of the *Income Tax Act* (Canada) as those subparagraphs apply by virtue of subsections 13 (1) and (1a) of this Act, and

16. Subclause 54 (3) (c) (ii) of the said Act is repealed and the following substituted therefor:

- (ii) subparagraphs 40 (1) (a) (iii) and 44 (1) (e) (iii) of the *Income Tax Act* (Canada) as those subparagraphs apply by virtue of subsections 13 (1) and (1a) of this Act, and
- R.S.C. 1952,
c. 148

17. Subsection 61 (3) of the said Act is repealed and the following substituted therefor:

(3) For the purposes of this section, the taxable paid-up capital of a corporation shall be determined in accordance with the provisions of Division B of this Part, irrespective of whether the corporation is subject to tax under this Act.

Non-resident corporations

18.—(1) Subsection 63 (1) of the said Act is repealed and the following substituted therefor:

(1) Except as provided in subsection 12 (10), every corporation referred to in subsection 49 (1), other than,

Idem

- (a) a corporation subject to the rules in subsection 149 (10) of the *Income Tax Act* (Canada) as made applicable by subsection 49 (6) of this Act; and
- R.S.C. 1952,
c. 148
- (b) a corporation referred to in paragraph 149 (1) (m) of the *Income Tax Act* (Canada) to which the rules in subsection 149 (10) of that Act do not apply,

shall not be required to pay taxes otherwise payable under section 58 or 60.

(2) Subsection 63 (2) of the said Act is repealed and the following substituted therefor:

(2) Subject to subsection (3), every corporation referred to in clause 1 (1) (d) or (e) and sections 39 and 43 of this Act, and paragraph 149 (1) (m) of the *Income Tax Act* (Canada), other than a corporation which is subject to the rules in subsection 149 (10) of the *Income Tax Act* (Canada) as made applicable by subsection 49 (6) of this Act, shall, in lieu of the tax payable under section 58 or 60, pay a tax of \$50.

Idem

19. Subsection 70 (9) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted therefor:

(9) Where a corporation made a deduction under clause 33 (1) (b) or subsection 33a(1) from tax otherwise payable for a previous taxation year, it shall be deemed to have made

Idem

such deduction from tax under clause 33 (1) (a), and not under clause 33 (1) (b) or subsection 33a(1), for the purposes of calculating,

- (a) the instalments required under clause (2) (a); and
- (b) its first instalment base and second instalment base for the purposes of clause (2) (a),

for a taxation year other than,

- (c) a tax exempt year within the meaning of subsection 33 (2a); and
- (d) a taxation year for which the corporation will make a deduction under subsection 33a(1) from tax otherwise payable for that year.

20.—(1) Subsection 73 (2) of the said Act is repealed and the following substituted therefor:

Determi-
nation
of losses

(2) Where the Minister determines that the amount of a corporation's non-capital loss, net capital loss, restricted farm loss or farm loss for the taxation year is different from the amount reported by the corporation in its return of income for that taxation year, the Minister shall, if requested by the corporation, notify the corporation without undue delay of the amount determined to be such loss.

(2) Subsection 73 (3) of the said Act is amended by striking out "or restricted farm loss" in the eleventh line and inserting in lieu thereof "restricted farm loss or farm loss".

(3) Subsection 73 (4) of the said Act is amended by striking out "or restricted farm loss" in the third line and inserting in lieu thereof "restricted farm loss or farm loss".

(4) Clause 73 (7) (b) of the said Act is repealed and the following substituted therefor:

- (b) within eight years from the day of mailing of a notice of the original assessment or of a notification that no tax is payable for the taxation year, where the corporation has claimed a deduction for the taxation year under section 41 or 111 of the *Income Tax Act* (Canada), as applicable to this Act; and
- (c) within six years from the day of mailing of a notice of the original assessment or of a notification that

no tax is payable for the taxation year, in any other case,

21.—(1) Subsection 77 (1) of the said Act is amended by striking out “ninety days” in the second line and inserting in lieu thereof “180 days”.

(2) Subsection 77 (5) of the said Act is repealed and the following substituted therefor:

(5) A reassessment made by the Minister pursuant to subsection (4) is not invalid by reason only of not having been made within the time period described in clause 73 (7) (b) or (c). Idem

22. Section 84 of the said Act is repealed and the following substituted therefor:

84. The time within which a notice of objection or a notice of appeal is to be served may be extended by the Minister if application for extension is made, Extension of time

- (a) with respect to a notice of objection under subsection 77 (1), within one year from the day of mailing of the notice of assessment that is the subject of the objection; or
- (b) with respect to a notice of appeal under subsection 78 (1), before the expiration of the time allowed thereunder for service of the notice of appeal.

23.—(1) Clause 85 (2) (b) of the said Act is amended by striking out “Tax Review Board” in the second line and inserting in lieu thereof “Tax Court of Canada”.

(2) Subsection 85 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 17, is repealed and the following substituted therefor:

(4) A reassessment made by the Minister pursuant to subsection (2) is not invalid by reason only of not having been made within the time period described in clause 73 (7) (b) or (c). Idem

24. Subsection 86 (4) of the said Act is repealed and the following substituted therefor:

Authority
to enter and
search

(4) Where the Minister has reasonable and probable grounds to believe that a contravention of this Act or a regulation has occurred or is likely to occur, he may, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon an *ex parte* application which is supported by evidence on oath establishing the facts upon which the application is based, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other police officers as he calls upon to assist him and such other persons as may be named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations thereunder, and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

25.—(1) Subsection 93 (1) of the said Act is repealed and the following substituted therefor:

Garnishment

(1) Where the Minister has knowledge or suspects that a person is or will be, within ninety days, liable to make a payment to a corporation which is liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require that person to pay forthwith, where the moneys are immediately payable, and, in any other case, as and when the moneys become payable, the moneys otherwise payable to the corporation in whole or in part to the Treasurer of Ontario on account of the corporation's liability under this Act.

(2) Section 93 of the said Act is amended by adding thereto the following subsections:

Idem

(1a) Notwithstanding subsection (1), where the Minister has knowledge or suspects that within ninety days,

- (a) a bank, credit union, trust company or other similar person (in this section referred to as the "institution") will loan or advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by a corporation which is indebted to the institution and which has granted security in respect of the indebtedness; or
- (b) a person other than an institution will loan or advance moneys to, or make a payment on behalf of, a corporation which the Minister knows or suspects,

- (i) is engaged in providing services or property to that person, or was or will be within ninety days, or
- (ii) where that person is a corporation which is not dealing at arm's length with the first mentioned corporation,

he may, by registered letter or by a letter served personally, require the institution or the person, as the case may be, to pay in whole or in part to the Treasurer of Ontario, on account of the corporation's liability under this Act, the moneys that would otherwise be loaned, advanced or paid, and any moneys paid to the Treasurer shall be deemed to have been loaned, advanced or paid, as the case may be, to the corporation.

(1b) Where, under this section, the Minister has required a person to pay to the Treasurer of Ontario moneys otherwise payable by the person to the corporation as interest, rent, remuneration, a dividend, an annuity payment, or other periodic payment, Idem

- (a) the requirement shall apply to all such periodic payments to be made by the person to the corporation after the date of receipt by him of the Minister's letter, until the corporation's liability under this Act has been satisfied; and
- (b) the payments required to be made to the Treasurer of Ontario shall be made from each such periodic payment in the amount or amounts designated in the Minister's letter.

(3) Subsection 93 (3) of the said Act is repealed and the following substituted therefor:

(3) Every person who fails to comply with a requirement under subsection (1) or (1b) is liable to pay to Her Majesty in right of Ontario an amount equal to the amount that he was required under subsection (1) or (1b), as applicable, to pay to the Treasurer of Ontario. Idem

(4) Section 93 of the said Act is further amended by adding thereto the following subsection:

(3a) Every institution or person who fails to comply with a requirement under subsection (1a) with respect to moneys to be loaned, advanced or paid is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of, Idem

- (a) the aggregate of moneys so loaned, advanced or paid; and
- (b) the amount that the institution or person was required by subsection (1a) to pay to the Treasurer of Ontario.

26. The said Act is further amended by adding thereto the following section:

Moneys
seized in
criminal
proceedings

93a.—(1) Where the Minister knows or suspects that a person is holding moneys that were seized by a police officer in the course of administering or enforcing the criminal law of Canada from a corporation, which is liable to make a payment under this Act, that are restorable to the corporation, he may, by registered letter or by a letter served personally, require that person to turn over the moneys otherwise restorable to the corporation in whole or in part to the Treasurer of Ontario on account of the corporation's liability under this Act.

Receipt

(2) The receipt of the Minister for moneys turned over as required by this section is a good and sufficient discharge of the requirement to restore the moneys to the corporation to the extent of the amount so turned over.

27. The said Act is further amended by adding thereto the following sections:

Security

94a. The Minister may, if he considers it advisable, accept security for the payment of taxes by a corporation by way of a mortgage or other charge of any kind upon the property of the corporation or of any other person, or by way of a guarantee of the payment of the taxes by another person.

Costs

94b. Where the Minister, in the course of obtaining payment of taxes, interest or penalties owed by a corporation under this Act, incurs reasonable costs and charges upon,

- (a) the registration of a notice claiming first lien and charge under subsection 92 (1);
- (b) the personal service of a letter referred to in section 93;
- (c) the bringing of an action for the recovery of tax, interest and penalties under clause 94 (1) (a); and

- (d) the issuance and execution of a warrant referred to in clause 94 (1) (b) to the extent not recovered by the Sheriff upon execution thereof,

the costs and charges may be recovered from the corporation.

94c. For the purpose of collecting debts owed by a corporation to Her Majesty in right of Ontario under this Act, the Minister may purchase or otherwise acquire any interest in the corporation's property that the Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption and may dispose of any interest so acquired in such manner as he considers reasonable. Idem

28. The said Act is further amended by adding thereto the following section:

95a.—(1) Every person required by subsection 67 (3) to file a return for a corporation for a taxation year shall, within thirty days from the day of mailing of the notice of assessment, pay all taxes, interest and penalties payable by or in respect of that corporation to the extent that he has or had, at any time since the taxation year, in his possession or control property belonging to the corporation or its estate and shall thereupon be deemed to have made the payment on behalf of the corporation. Payment of
tax by
receivers

(2) Every assignee, liquidator, receiver, receiver-manager, and other agent, other than a trustee in bankruptcy, before distributing any property of the corporation under his control, shall obtain a certificate from the Minister certifying that all taxes, interest and penalties that have been assessed under this Act and are chargeable against or payable out of the property of the corporation have been paid or that security for the payment thereof in a form acceptable to the Minister has been given under section 94a. Certificate
of taxes paid

(3) Any person referred to in subsection (2) who fails to obtain the certificate referred to therein shall be personally liable to Her Majesty in right of Ontario for an amount equal to the taxes, interest and penalties payable under subsection (1) and such debt shall be deemed to be tax owing by such person under this Act and may be enforced in accordance with the provisions of this Act. Personal
liability
of receivers

29. Subsection 96 (1) of the said Act is amended by striking out "capital assets" in the fifth line and inserting in lieu thereof "property".

Commencement
and
application

R.S.C. 1952,
c. 148

30.—(1) Subsection 1 (1), the references to subparagraphs 53 (2) (c) (vii) and (viii), 53 (2) (h) (iii) and (iv), paragraph 127.2 (6) (a) and subsections 127.2 (8) and 127.3 (6) and paragraph 138.1 (1) (k) of the *Income Tax Act* (Canada) contained in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, subsections 12 (11), (13) and (14) of the said Act, as enacted by section 2 of this Act, section 3, subsection 73 (2) of the said Act, as re-enacted by subsection 20 (1) of this Act, and subsections 73 (3) and (4) of the said Act, as amended by subsections 20 (2) and (3) of this Act, shall be deemed to have come into force on the 1st day of January, 1983 and apply to corporations in respect of all taxation years ending after the 31st day of December, 1982.

Idem
R.S.C. 1952,
c. 148

(2) The reference to section 12.2 of the *Income Tax Act* (Canada) contained in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, shall be deemed to have come into force on the 1st day of January, 1983, and applies to corporations in respect of all taxation years commencing after the 31st day of December, 1982.

Idem

(3) The reference to subparagraphs 53 (2) (c) (vi) and 53 (2) (h) (ii) of the *Income Tax Act* (Canada) contained in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after the 31st day of December, 1981.

Idem

(4) The removal of the reference to section 69 of the *Income Tax Act* (Canada) in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, shall be deemed to have come into force on the 1st day of May, 1983, and applies in respect of dispositions of aviation turbine fuel made after the 30th day of April, 1983.

Idem

(5) The reference to section 88 of the *Income Tax Act* (Canada) in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, shall be deemed to have come into force on the 17th day of November, 1978, and applies with respect to corporate windings-up commencing after the 16th day of November, 1978.

Idem
R.S.C. 1952,
c. 148

(6) The reference to paragraph 133 (8) (b) of the *Income Tax Act* (Canada) in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, and the reference to paragraphs 133 (8) (b) and (c) and section 134 of the *Income Tax Act* (Canada) in subsection 41 (3) of the said Act, as re-enacted by subsection 13 (2) of this Act, shall be deemed to have come into force on the 8th day of December, 1977.

(7) Subsection 12 (9b) of the said Act, as enacted by section 2 of this Act, shall be deemed to have come into force on the 16th day of May, 1984, and applies to corporations in respect of all taxation years ending after the 15th day of May, 1984. Idem

(8) Subsection 12 (12) of the said Act, as enacted by section 2 of this Act, shall be deemed to have come into force on the 20th day of April, 1983, and applies to all corporations with respect to repayments of interest made after the 19th day of April, 1983. Idem

(9) Subsection 12 (15) of the said Act, as enacted by section 2 of this Act, shall be deemed to have come into force on the 8th day of March, 1978, and applies to all corporations with respect to expenditures of a current nature incurred after the 7th day of March, 1978. Idem

(10) Subsection 4 (1) and sections 5, 24, 25, 26, 27, 28 and 29 come into force on the day this Act receives Royal Assent. Idem

(11) Subsection 4 (2) shall be deemed to have come into force on the 20th day of April, 1983, and applies to all corporations with respect to amounts which became receivable by the corporation after the 19th day of April, 1983. Idem

(12) Section 6 shall be deemed to have come into force on the 17th day of March, 1983, and applies with respect to Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses incurred by a joint exploration corporation after the 16th day of March, 1983, other than any such expense incurred after the 16th day of March, 1983, and before the 1st day of October, 1984, in respect of which payments or loans referred to in subparagraph 66 (15) (i) (ii) of the *Income Tax Act* (Canada), as re-enacted by 1983-84, chapter 1, subsection 27 (10) (Can.), are made to the joint exploration corporation pursuant to arrangements that were substantially advanced and evidenced in writing on or before the 16th day of March, 1983. Idem

R.S.C. 1952,
c. 148

(13) Section 7 and the deletion of the reference to subsection 133 (5) of the *Income Tax Act* (Canada) in the re-enactment of subsection 41 (3) of the said Act by subsection 13 (2) of this Act, shall be deemed to have come into force on the 1st day of January, 1979. Idem

R.S.C. 1952,
c. 148

(14) Sections 8 and 19 shall be deemed to have come into force on the 14th day of May, 1982 with respect to taxation years of a corporation ending after the 13th day of May, 1982, where the corporation has claimed a deduction from tax for any year under clause 33 (1) (b) of the said Act, and shall be Idem

deemed to have come into force on the 14th day of May, 1985, with respect to taxation years ending after the 13th day of May, 1985, where the corporation has not claimed a deduction from tax for any year under clause 33 (1) (b) but has claimed a deduction from tax for any year under subsection 33a (1) of the said Act.

Idem (15) Subsections 9 (1) and (2) shall be deemed to have come into force on the 1st day of January, 1978, and apply to all taxation years of a corporation ending after the 31st day of December, 1977.

Idem (16) Subsections 9 (3), (4) and (5) shall be deemed to have come into force on the 1st day of January, 1976, and apply to all taxation years of a corporation ending after the 31st day of December, 1975.

Idem (17) Subsections 10 (1) and (3) and section 11 shall be deemed to have come into force on the 14th day of May, 1985 and apply to taxation years of corporations ending after the 13th day of May, 1985.

Idem (18) Subsection 10 (2) shall be deemed to have come into force on the 16th day of May, 1984 and applies with respect to taxation years of a corporation ending after the 15th day of May, 1984.

Idem (19) Section 12 shall be deemed to have come into force on the 24th day of October, 1979, and applies to taxation years commencing after 1979 in respect of corporations in existence on the 23rd day of October, 1979 and to taxation years commencing after the 23rd day of October, 1979 in any other case.

Idem (20) Subsection 13 (1) shall be deemed to have come into force on the 1st day of January, 1982, and applies to the computation of taxable income by corporations for taxation years ending after 1981 with respect to net capital losses determined for taxation years ending after 1983.

Idem (21) Sections 14 and 18 shall be deemed to have come into force on the 13th day of November, 1981, and apply to corporations which became subject to tax after the 12th day of November, 1981.

Idem (22) Sections 15 and 16 shall be deemed to have come into force on the 12th day of December, 1979, and apply to all taxation years of corporations ending after the 11th day of December, 1979.

(23) Section 17 shall be deemed to have come into force on the 20th day of May, 1980. Idem

(24) Subsections 20 (4), 21 (2) and 23 (2) shall be deemed to have come into force on the 20th day of April, 1983 and apply to assessments issued after the 19th day of April, 1983. Idem

(25) Subsection 21 (1) and section 22 shall be deemed to have come into force on the 15th day of February, 1984, and apply to assessments issued after the 14th day of February, 1984. Idem

(26) Subsection 23 (1) shall be deemed to have come into force on the 18th day of July, 1983. Idem

31. The short title of this Act is the *Corporations Tax Amendment Act, 1984*. Short title



Bill 72

JUN 27 1984 (Chapter 29)
Statutes of Ontario, 1984)

An Act to amend the Corporations Tax Act

The Hon. B. Gregory
Minister of Revenue

<i>1st Reading</i>	May 17th, 1984
<i>2nd Reading</i>	May 31st, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 72

1984

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (aa) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 29, section 1, is amended by adding thereto the following subclause:

(ii) paragraph 127.2 (6) (a).

(2) Subclause 1 (2) (d) (iv) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 1, is repealed and the following substituted therefor:

(iv) where subclause (i) applies, the section (except sections 12, 12.2 and 20, subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56, 60 and 88, paragraphs 95 (1) (f) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), section 138, paragraph 138.1 (1) (k) and section 248 of that Act) shall be read as if the reference to the other provision were deleted.

2. Section 12 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 3, 1982, chapter 19, section 1 and 1983, chapter 29, section 2, is further amended by adding thereto the following subsections:

(9b) In the application of section 26 of the *Income Tax Act* (Canada) for the purposes of this Act, each reference therein to the "Minister of Finance" shall be deemed to be a reference to the Minister of Revenue, and the reasonable requirements of a bank shall be determined in the prescribed manner.

Banks
R.S.C. 1952,
c. 148

Scientific
research
expenditures
R.S.C. 1952,
c. 148

(11) In the application of paragraph 37 (1) (g) of the *Income Tax Act* (Canada) for the purposes of this Act,

- (a) clause 1 (2) (d) of this Act does not apply; and
- (b) the aggregate of the amounts determined under paragraph 37 (1) (g) of the *Income Tax Act* (Canada) applies for the purposes of the application of that paragraph under this Act.

Interest
repayments

(12) Paragraph 20 (1) (II) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act and in lieu thereof there may be deducted the amount of interest paid by a corporation to the Receiver General of Canada or to the Treasurer or other government authority of a Province, to the extent that,

- (a) the interest was previously received by, or applied to a liability of the corporation, in respect of an overpayment made on account of tax payable, pursuant to the provisions of an Act of the Parliament of Canada or the Legislature of a Province imposing a tax on the income or profits of the corporation;
- (b) the interest was included in computing the income of the corporation from a business or property for the purposes of this Act; and
- (c) the corporation was required to repay the interest as a result of a subsequent determination that the amount upon which the interest was calculated was not an overpayment of tax.

Idem
R.S.C. 1952,
c. 148

(13) Subsections 127.2 (8) and 127.3 (6) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act in the determination of the cost of property other than capital property, including shares, debt obligations and rights, and in the determination of any amount to be included in the income of the corporation as a result of any adjustments to the cost of the property under this subsection.

Deemed
government
assistance

(14) Notwithstanding clause 1 (2) (d), in the application of subsection 13 (7.1) of the *Income Tax Act* (Canada) for the purposes of this Act, all amounts deducted under subsection 127 (5) or (6) of that Act in respect of depreciable property, or deemed to have been deducted in respect of depreciable property under subsection 127 (5) of that Act by operation of subsection 127.1 (3) or 192 (10) of that Act, shall, for the purposes of this Act, be deemed to be assistance received by the corporation before that time from a government.

(15) Notwithstanding clause 1 (2) (d), in the application of subsection 37 (1) of the *Income Tax Act* (Canada) for the purposes of this Act, all amounts deducted under subsection 127 (5) of that Act, or deemed to have been deducted under subsection 127 (5) by operation of subsection 127.1 (3) or 192 (10) of that Act in the application of subsection 37 (1) for the purposes of that Act, shall be deducted in the application of paragraph 37 (1) (e) of that Act for the purposes of this Act.

Reduction of
scientific
research
expenditures
R.S.C. 1952,
c. 148

3. Section 13 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 3, is further amended by adding thereto the following subsections:

(6) Subsections 127.2 (8) and 127.3 (6) of the *Income Tax Act* (Canada) apply in the determination of the cost of and capital gain from the disposition of capital property which includes shares, debt obligations and rights.

Idem

(7) Notwithstanding clause 1 (2) (d), in the application of paragraph 53 (2) (k) of the *Income Tax Act* (Canada) for the purposes of this Act, all amounts deducted under subsection 127 (5) or (6) of that Act, or deemed to have been deducted under subsection 127 (5) by operation of subsection 127.1 (3) or 192 (10) of that Act in the application of paragraph 53 (2) (k) for the purposes of that Act, shall be deemed to be assistance received by the corporation before that time from a government.

Deemed
government
assistance
R.S.C. 1952,
c. 148

4.—(1) Subsection 14 (2) of the said Act is repealed.

(2) Clause 14 (3) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 4, is amended by striking out “paragraph (3.2) (a)” in the second line and inserting in lieu thereof “paragraphs (3.2) (a) and (3.3) (f)”.

5. Subsection 15 (2) of the said Act is repealed.

6. Subsection 18 (6a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is amended by striking out “and (10.3)” in the first line and inserting in lieu thereof “(10.3) and (10.4)”.

7. Subsection 23 (5) of the said Act is amended by striking out “paragraphs 89 (1) (g) and (k)” in the second and third lines and inserting in lieu thereof “paragraph 89 (1) (g)”.

8. Section 27 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 10, is further amended by adding thereto the following subsections:

Idem

(5) Where a corporation claims a deduction under clause 33 (1) (b) or subsection 33a (1) from tax otherwise payable in a taxation year, the corporation shall be deemed to have deducted, in the computation of its taxable income for that year, except for the purposes of clause 33 (2c) (b), the amount of all losses deductible under subsection 111 (1) of the *Income Tax Act* (Canada), as made applicable by subsection (1), which were not deducted nor deemed by this subsection to have been deducted in the computation of taxable income for any preceding taxation year.

R.S.C. 1952,
c. 148

Idem

(6) Where, under subsection (5),

- (a) a corporation;
- (b) a predecessor corporation of the corporation, within the meaning of section 87 of the *Income Tax Act* (Canada); or
- (c) a subsidiary of the corporation, prior to a winding-up of the subsidiary to which the rules in subsection 88 (1) of the *Income Tax Act* (Canada) apply,

has been deemed to have deducted a loss in the computation of its taxable income for a taxation year, the amount of such loss shall not be deducted by the corporation in the computation of its taxable income for any other taxation year.

9.—(1) Subclause 32 (1) (a) (ii) of the said Act is repealed.

(2) Clause 32 (1) (d) of the said Act is repealed and the following substituted therefor:

- (d) the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as a “foreign tax credit”, with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income,

R.S.C. 1952,
c. 148

(3) Clause 32 (1) (e) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 13, is repealed and the following substituted therefor:

- (e) 15 per cent of the amount determined by multiplying such foreign investment income by the Ontario allocation factor for the taxation year; and

(4) Clause 32 (1) (f) of the said Act is repealed and the following substituted therefor:

- (f) the amount determined by applying the Ontario allocation factor for the taxation year to the deficiency, if any, between,
 - (i) that portion of the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of such foreign investment income, that was not deducted, by virtue of subsection 20 (12) of the *Income Tax Act* (Canada) for the purposes of that Act or for the purposes of this Act by virtue of that subsection as made applicable by section 12 of this Act, in computing the corporation's income for the year, and
 - (ii) the foreign tax credit allowed for the taxation year in respect of such foreign investment income under subsection 126 (1) of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

(5) Section 32 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 13, is further amended by adding thereto the following subsection:

(3) For the purposes of this section, the Ontario allocation factor for the taxation year is the ratio that,

Ontario
allocation
factor

- (a) that portion of the corporation's taxable income not deemed to have been earned in jurisdictions outside of Ontario for the purposes of section 31,

is to,

- (b) the corporation's taxable income.

10.—(1) Subsection 33 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 2 and amended by 1983, chapter 29, section 14, is further amended by inserting after "year" in the third line "has not claimed a deduction under subsection 33a (1) but".

(2) Section 33 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 19, section 2 and 1983, chapter 29, section 14, is further amended by adding thereto the following subsection:

Adjustment
to taxable
income

R.S.C. 1952,
c. 148

(2c) For the purposes of determining the amount of any deduction for a taxation year under subsection 33 (1), 33a (1) or 34 (1) from the tax otherwise payable under this Part, the amount of the corporation's taxable income for the year for the purposes of paragraph 125 (1) (b) of the *Income Tax Act* (Canada) shall be deemed, for the purposes of the application of that paragraph to subsections 33 (2), 33a (2) and 34 (2), to be,

(a) the aggregate of,

(i) the amount of the corporation's taxable income for the year for the purposes of the *Income Tax Act* (Canada), and

(ii) the amount of losses deducted under section 111 of the *Income Tax Act* (Canada) by the corporation in the computation of its taxable income for the year for the purposes of that Act,

minus,

(b) the amount of losses deducted by the corporation under section 111 of the *Income Tax Act* (Canada), as made applicable by subsection 27 (1), in the computation of its taxable income for the year for the purposes of this Act.

(3) Subsection 33 (5) of the said Act is repealed and the following substituted therefor:

Interpretation

(5) In this section and section 33a, "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 31 and 32, but before making any deduction under this section or section 33a, whichever is applicable, or section 34.

11. The said Act is amended by adding thereto the following section:

New
enterprise
incentive

33a.—(1) There may be deducted from the tax otherwise payable under this Part, for the first, second or third taxation year of a corporation that was incorporated after the 13th day

of May, 1982, an amount equal to 15 per cent of the amount determined under subsection (2), if the corporation is eligible to claim and has claimed, with respect to the taxation year, a deduction under subsection 125 (1) of the *Income Tax Act* (Canada). R.S.C. 1952,
c. 148

(2) For the purposes of subsection (1), the amount determined under this subsection is, Idem

- (a) that proportion of the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) of the *Income Tax Act* (Canada) for the taxation year, not exceeding \$200,000,

that,

- (b) the amount of that portion of its taxable income for the taxation year that is deemed to have been earned in Ontario, measured in accordance with paragraph 124 (4) (a) of the *Income Tax Act* (Canada), R.S.C. 1952,
c. 148

bears to,

- (c) the total amount of the portions of its taxable income for the taxation year that are deemed to have been earned in the provinces of Canada, measured in accordance with paragraph 124 (4) (a) of the *Income Tax Act* (Canada).

(3) Notwithstanding subsection (1), a corporation is not eligible for a deduction for the year under subsection (1) if it, or any predecessor corporation thereof within the meaning of section 87 of the *Income Tax Act* (Canada), at any time since the date of its incorporation, Eligibility

- (a) was related to any other corporation;
- (b) carried on a non-qualifying business in Canada;
- (c) carried on an active business by reason of being a member of a partnership;
- (d) was a beneficiary of a trust;
- (e) carried on an active business by reason of being a co-venturer in a joint venture with any other corporation;

- (f) has carried on an active business by reason of having acquired (by purchase or otherwise) or leased property from another corporation (hereinafter referred to as the "vendor") in respect of which, it, any of its shareholders, or any persons related to it or its shareholders, beneficially owned at any time, directly or indirectly, more than 10 per cent of the issued shares of any class of the capital stock of the vendor; or
- (g) has carried on an active business by reason of having acquired (by purchase or otherwise) or leased property in a manner prescribed by regulation or has engaged in any activities prescribed by regulation.

Idem

(4) A corporation shall not be entitled to a deduction under subsection (1) for the year if, as a result of a transaction or an event, or a series of transactions or events, property of a business has been transferred, or has been deemed to have been transferred, either directly or indirectly, to the corporation, and it is reasonable for the Minister to believe that one of the principal purposes of the transfer or deemed transfer is to enable a corporation to claim a deduction from tax under subsection (1) that would not otherwise be allowed.

Idem

(5) A corporation shall not be entitled to a deduction under subsection (1) for the year if, as a result of a disposition, a deemed disposition or a series of dispositions of shares of any corporation, it is reasonable for the Minister to believe that one of the principal purposes of the disposition or deemed disposition is to enable a corporation to claim a deduction from tax under subsection (1) to which it would not otherwise be entitled.

Non-qualifying business

(6) For the purposes of this section, a "non-qualifying business" means a business, other than a personal services business, which is,

- (a) the professional practice of an accountant, dentist, lawyer, medical doctor, veterinarian or chiropractor;
- (b) a business of providing services if more than $66 \frac{2}{3}$ per cent of the gross revenue for the year of that business derived from services,
 - (i) is derived from services provided to, or performed for or on behalf of, one entity, and

- (ii) can reasonably be attributed to services performed by persons who are specified shareholders of the corporation or persons related thereto,

unless the corporation employs in the business throughout the year more than five full-time employees who are not specified shareholders of the corporation or persons related thereto; or

- (c) a business the principal purpose of which is to provide managerial, administrative, financial, maintenance or other similar services, to lease property (other than real property), or to provide any such services and to lease property (other than real property), to one or more businesses connected at any time in the year with the corporation.

(7) For the purposes of subsection (6),

Interpretation

- (a) "business connected" has the meaning ascribed thereto by paragraph 125 (9) (a) of the *Income Tax Act* (Canada) as that paragraph read on the 1st day of January, 1984;

R.S.C. 1952,
c. 148

- (b) "specified shareholder" has the meaning ascribed thereto by paragraph 125 (9) (c) of the *Income Tax Act* (Canada) as that paragraph read on the 1st day of January, 1984.

12.—(1) Clause 34 (2) (a) of the said Act is repealed and the following substituted therefor:

- (a) the amount, if any, by which the corporation's eligible Canadian profits for the year exceeds,
 - (i) the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) of the *Income Tax Act* (Canada) for the taxation year by a corporation to which subsection 125 (1) of that Act applies, and
 - (ii) the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) of the *Income Tax Act* (Canada) for the taxation year by a corporation to which subsection 125 (1.1) of that Act applies; and

R.S.C. 1952,
c. 148

(2) Subclause 34 (2) (b) (i) of the said Act is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148

- (i) the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) of the *Income Tax Act* (Canada) for the taxation year by a corporation to which subsection 125 (1) of that Act applies,
- (ia) the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) of the *Income Tax Act* (Canada) for the taxation year by a corporation to which subsection 125 (1.1) of that Act applies.

13.—(1) Subsection 41 (2) of the said Act is amended by striking out “the taxation year immediately following” in the fourth line and inserting in lieu thereof “a taxation year following”.

(2) Subsection 41 (3) of the said Act is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148, s. 133
(7.1, 7.2),
(8) (b, c) and
s. 134
applicable

(3) The provisions of subsections 133 (7.1) and (7.2), paragraphs 133 (8) (b) and (c) and section 134 of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

14. Section 49 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 9 and 1983, chapter 29, section 16, is further amended by adding thereto the following subsection:

Idem

(6) In the application of subsection 149 (10) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to “this Part” shall be deemed to be a reference to Part II of this Act.

15. Subclause 53 (1) (c) (ii) of the said Act is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148

- (ii) subparagraphs 40 (1) (a) (iii) and 44 (1) (e) (iii) of the *Income Tax Act* (Canada) as those subparagraphs apply by virtue of subsections 13 (1) and (1a) of this Act, and

16. Subclause 54 (3) (c) (ii) of the said Act is repealed and the following substituted therefor:

- (ii) subparagraphs 40 (1) (a) (iii) and 44 (1) (e) (iii) of the *Income Tax Act* (Canada) as those subparagraphs apply by virtue of subsections 13 (1) and (1a) of this Act, and

R.S.C. 1952,
c. 148

17. Subsection 61 (3) of the said Act is repealed and the following substituted therefor:

(3) For the purposes of this section, the taxable paid-up capital of a corporation shall be determined in accordance with the provisions of Division B of this Part, irrespective of whether the corporation is subject to tax under this Act.

Non-resident
corporations

18.—(1) Subsection 63 (1) of the said Act is repealed and the following substituted therefor:

(1) Except as provided in subsection 12 (10), every corporation referred to in subsection 49 (1), other than,

Idem

- (a) a corporation subject to the rules in subsection 149 (10) of the *Income Tax Act* (Canada) as made applicable by subsection 49 (6) of this Act; and
- (b) a corporation referred to in paragraph 149 (1) (m) of the *Income Tax Act* (Canada) to which the rules in subsection 149 (10) of that Act do not apply,

R.S.C. 1952,
c. 148

shall not be required to pay taxes otherwise payable under section 58 or 60.

(2) Subsection 63 (2) of the said Act is repealed and the following substituted therefor:

(2) Subject to subsection (3), every corporation referred to in clause 1 (1) (d) or (e) and sections 39 and 43 of this Act, and paragraph 149 (1) (m) of the *Income Tax Act* (Canada), other than a corporation which is subject to the rules in subsection 149 (10) of the *Income Tax Act* (Canada) as made applicable by subsection 49 (6) of this Act, shall, in lieu of the tax payable under section 58 or 60, pay a tax of \$50.

Idem

19. Subsection 70 (9) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted therefor:

(9) Where a corporation made a deduction under clause 33 (1) (b) or subsection 33a(1) from tax otherwise payable for a previous taxation year, it shall be deemed to have made

Idem

such deduction from tax under clause 33 (1) (a), and not under clause 33 (1) (b) or subsection 33a(1), for the purposes of calculating,

- (a) the instalments required under clause (2) (a); and
- (b) its first instalment base and second instalment base for the purposes of clause (2) (a),

for a taxation year other than,

- (c) a tax exempt year within the meaning of subsection 33 (2a); and
- (d) a taxation year for which the corporation will make a deduction under subsection 33a(1) from tax otherwise payable for that year.

20.—(1) Subsection 73 (2) of the said Act is repealed and the following substituted therefor:

Determina-
tion
of losses

(2) Where the Minister determines that the amount of a corporation's non-capital loss, net capital loss, restricted farm loss or farm loss for the taxation year is different from the amount reported by the corporation in its return of income for that taxation year, the Minister shall, if requested by the corporation, notify the corporation without undue delay of the amount determined to be such loss.

(2) Subsection 73 (3) of the said Act is amended by striking out "or restricted farm loss" in the eleventh line and inserting in lieu thereof "restricted farm loss or farm loss".

(3) Subsection 73 (4) of the said Act is amended by striking out "or restricted farm loss" in the third line and inserting in lieu thereof "restricted farm loss or farm loss".

(4) Clause 73 (7) (b) of the said Act is repealed and the following substituted therefor:

- (b) within eight years from the day of mailing of a notice of the original assessment or of a notification that no tax is payable for the taxation year, where the corporation has claimed a deduction for the taxation year under section 41 or 111 of the *Income Tax Act* (Canada), as applicable to this Act; and
- (c) within six years from the day of mailing of a notice of the original assessment or of a notification that

no tax is payable for the taxation year, in any other case,

21.—(1) Subsection 77 (1) of the said Act is amended by striking out “ninety days” in the second line and inserting in lieu thereof “180 days”.

(2) Subsection 77 (5) of the said Act is repealed and the following substituted therefor:

(5) A reassessment made by the Minister pursuant to subsection (4) is not invalid by reason only of not having been made within the time period described in clause 73 (7) (b) or (c). Idem

22. Section 84 of the said Act is repealed and the following substituted therefor:

84. The time within which a notice of objection or a notice of appeal is to be served may be extended by the Minister if application for extension is made, Extension of time

- (a) with respect to a notice of objection under subsection 77 (1), within one year from the day of mailing of the notice of assessment that is the subject of the objection; or
- (b) with respect to a notice of appeal under subsection 78 (1), before the expiration of the time allowed thereunder for service of the notice of appeal.

23.—(1) Clause 85 (2) (b) of the said Act is amended by striking out “Tax Review Board” in the second line and inserting in lieu thereof “Tax Court of Canada”.

(2) Subsection 85 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 17, is repealed and the following substituted therefor:

(4) A reassessment made by the Minister pursuant to subsection (2) is not invalid by reason only of not having been made within the time period described in clause 73 (7) (b) or (c). Idem

24. Subsection 86 (4) of the said Act is repealed and the following substituted therefor:

Authority
to enter and
search

(4) Where the Minister has reasonable and probable grounds to believe that a contravention of this Act or a regulation has occurred or is likely to occur, he may, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon an *ex parte* application which is supported by evidence on oath establishing the facts upon which the application is based, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other police officers as he calls upon to assist him and such other persons as may be named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations thereunder, and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

25.—(1) Subsection 93 (1) of the said Act is repealed and the following substituted therefor:

Garnishment

(1) Where the Minister has knowledge or suspects that a person is or will be, within ninety days, liable to make a payment to a corporation which is liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require that person to pay forthwith, where the moneys are immediately payable, and, in any other case, as and when the moneys become payable, the moneys otherwise payable to the corporation in whole or in part to the Treasurer of Ontario on account of the corporation's liability under this Act.

(2) Section 93 of the said Act is amended by adding thereto the following subsections:

Idem

(1a) Notwithstanding subsection (1), where the Minister has knowledge or suspects that within ninety days,

- (a) a bank, credit union, trust company or other similar person (in this section referred to as the "institution") will loan or advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by a corporation which is indebted to the institution and which has granted security in respect of the indebtedness; or
- (b) a person other than an institution will loan or advance moneys to, or make a payment on behalf of, a corporation which the Minister knows or suspects,

- (i) is engaged in providing services or property to that person, or was or will be within ninety days, or
- (ii) where that person is a corporation which is not dealing at arm's length with the first mentioned corporation,

he may, by registered letter or by a letter served personally, require the institution or the person, as the case may be, to pay in whole or in part to the Treasurer of Ontario, on account of the corporation's liability under this Act, the moneys that would otherwise be loaned, advanced or paid, and any moneys paid to the Treasurer shall be deemed to have been loaned, advanced or paid, as the case may be, to the corporation.

(1b) Where, under this section, the Minister has required a person to pay to the Treasurer of Ontario moneys otherwise payable by the person to the corporation as interest, rent, remuneration, a dividend, an annuity payment, or other periodic payment, Idem

- (a) the requirement shall apply to all such periodic payments to be made by the person to the corporation after the date of receipt by him of the Minister's letter, until the corporation's liability under this Act has been satisfied; and
- (b) the payments required to be made to the Treasurer of Ontario shall be made from each such periodic payment in the amount or amounts designated in the Minister's letter.

(3) Subsection 93 (3) of the said Act is repealed and the following substituted therefor:

(3) Every person who fails to comply with a requirement under subsection (1) or (1b) is liable to pay to Her Majesty in right of Ontario an amount equal to the amount that he was required under subsection (1) or (1b), as applicable, to pay to the Treasurer of Ontario. Idem

(4) Section 93 of the said Act is further amended by adding thereto the following subsection:

(3a) Every institution or person who fails to comply with a requirement under subsection (1a) with respect to moneys to be loaned, advanced or paid is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of, Idem

- (a) the aggregate of moneys so loaned, advanced or paid; and
- (b) the amount that the institution or person was required by subsection (1a) to pay to the Treasurer of Ontario.

26. The said Act is further amended by adding thereto the following section:

Moneys
seized in
criminal
proceedings

93a.—(1) Where the Minister knows or suspects that a person is holding moneys that were seized by a police officer in the course of administering or enforcing the criminal law of Canada from a corporation, which is liable to make a payment under this Act, that are restorable to the corporation, he may, by registered letter or by a letter served personally, require that person to turn over the moneys otherwise restorable to the corporation in whole or in part to the Treasurer of Ontario on account of the corporation's liability under this Act.

Receipt

(2) The receipt of the Minister for moneys turned over as required by this section is a good and sufficient discharge of the requirement to restore the moneys to the corporation to the extent of the amount so turned over.

27. The said Act is further amended by adding thereto the following sections:

Security

94a. The Minister may, if he considers it advisable, accept security for the payment of taxes by a corporation by way of a mortgage or other charge of any kind upon the property of the corporation or of any other person, or by way of a guarantee of the payment of the taxes by another person.

Costs

94b. Where the Minister, in the course of obtaining payment of taxes, interest or penalties owed by a corporation under this Act, incurs reasonable costs and charges upon,

- (a) the registration of a notice claiming first lien and charge under subsection 92 (1);
- (b) the personal service of a letter referred to in section 93;
- (c) the bringing of an action for the recovery of tax, interest and penalties under clause 94 (1) (a); and

- (d) the issuance and execution of a warrant referred to in clause 94 (1) (b) to the extent not recovered by the Sheriff upon execution thereof,

the costs and charges may be recovered from the corporation.

94c. For the purpose of collecting debts owed by a corporation to Her Majesty in right of Ontario under this Act, the Minister may purchase or otherwise acquire any interest in the corporation's property that the Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption and may dispose of any interest so acquired in such manner as he considers reasonable. Idem

28. The said Act is further amended by adding thereto the following section:

95a.—(1) Every person required by subsection 67 (3) to file a return for a corporation for a taxation year shall, within thirty days from the day of mailing of the notice of assessment, pay all taxes, interest and penalties payable by or in respect of that corporation to the extent that he has or had, at any time since the taxation year, in his possession or control property belonging to the corporation or its estate and shall thereupon be deemed to have made the payment on behalf of the corporation. Payment of
tax by
receivers

(2) Every assignee, liquidator, receiver, receiver-manager, and other agent, other than a trustee in bankruptcy, before distributing any property of the corporation under his control, shall obtain a certificate from the Minister certifying that all taxes, interest and penalties that have been assessed under this Act and are chargeable against or payable out of the property of the corporation have been paid or that security for the payment thereof in a form acceptable to the Minister has been given under section 94a. Certificate
of taxes paid

(3) Any person referred to in subsection (2) who fails to obtain the certificate referred to therein shall be personally liable to Her Majesty in right of Ontario for an amount equal to the taxes, interest and penalties payable under subsection (1) and such debt shall be deemed to be tax owing by such person under this Act and may be enforced in accordance with the provisions of this Act. Personal
liability
of receivers

29. Subsection 96 (1) of the said Act is amended by striking out "capital assets" in the fifth line and inserting in lieu thereof "property".

Commencement
and
application

R.S.C. 1952,
c. 148

30.—(1) Subsection 1 (1), the references to subparagraphs 53 (2) (c) (vii) and (viii), 53 (2) (h) (iii) and (iv), paragraph 127.2 (6) (a) and subsections 127.2 (8) and 127.3 (6) and paragraph 138.1 (1) (k) of the *Income Tax Act* (Canada) contained in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, subsections 12 (11), (13) and (14) of the said Act, as enacted by section 2 of this Act, section 3, subsection 73 (2) of the said Act, as re-enacted by subsection 20 (1) of this Act, and subsections 73 (3) and (4) of the said Act, as amended by subsections 20 (2) and (3) of this Act, shall be deemed to have come into force on the 1st day of January, 1983 and apply to corporations in respect of all taxation years ending after the 31st day of December, 1982.

Idem

R.S.C. 1952,
c. 148

(2) The reference to section 12.2 of the *Income Tax Act* (Canada) contained in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, shall be deemed to have come into force on the 1st day of January, 1983, and applies to corporations in respect of all taxation years commencing after the 31st day of December, 1982.

Idem

(3) The reference to subparagraphs 53 (2) (c) (vi) and 53 (2) (h) (ii) of the *Income Tax Act* (Canada) contained in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after the 31st day of December, 1981.

Idem

(4) The removal of the reference to section 69 of the *Income Tax Act* (Canada) in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, shall be deemed to have come into force on the 1st day of May, 1983, and applies in respect of dispositions of aviation turbine fuel made after the 30th day of April, 1983.

Idem

(5) The reference to section 88 of the *Income Tax Act* (Canada) in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, shall be deemed to have come into force on the 17th day of November, 1978, and applies with respect to corporate windings-up commencing after the 16th day of November, 1978.

Idem

R.S.C. 1952,
c. 148

(6) The reference to paragraph 133 (8) (b) of the *Income Tax Act* (Canada) in subclause 1 (2) (d) (iv) of the said Act, as re-enacted by subsection 1 (2) of this Act, and the reference to paragraphs 133 (8) (b) and (c) and section 134 of the *Income Tax Act* (Canada) in subsection 41 (3) of the said Act, as re-enacted by subsection 13 (2) of this Act, shall be deemed to have come into force on the 8th day of December, 1977.

(7) Subsection 12 (9b) of the said Act, as enacted by section 2 of this Act, shall be deemed to have come into force on the 16th day of May, 1984, and applies to corporations in respect of all taxation years ending after the 15th day of May, 1984. Idem

(8) Subsection 12 (12) of the said Act, as enacted by section 2 of this Act, shall be deemed to have come into force on the 20th day of April, 1983, and applies to all corporations with respect to repayments of interest made after the 19th day of April, 1983. Idem

(9) Subsection 12 (15) of the said Act, as enacted by section 2 of this Act, shall be deemed to have come into force on the 8th day of March, 1978, and applies to all corporations with respect to expenditures of a current nature incurred after the 7th day of March, 1978. Idem

(10) Subsection 4 (1) and sections 5, 24, 25, 26, 27, 28 and 29 come into force on the day this Act receives Royal Assent. Idem

(11) Subsection 4 (2) shall be deemed to have come into force on the 20th day of April, 1983, and applies to all corporations with respect to amounts which became receivable by the corporation after the 19th day of April, 1983. Idem

(12) Section 6 shall be deemed to have come into force on the 17th day of March, 1983, and applies with respect to Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses incurred by a joint exploration corporation after the 16th day of March, 1983, other than any such expense incurred after the 16th day of March, 1983, and before the 1st day of October, 1984, in respect of which payments or loans referred to in subparagraph 66 (15) (i) (ii) of the *Income Tax Act* (Canada), as re-enacted by 1983-84, chapter 1, subsection 27 (10) (Can.), are made to the joint exploration corporation pursuant to arrangements that were substantially advanced and evidenced in writing on or before the 16th day of March, 1983. Idem

R.S.C. 1952,
c. 148

(13) Section 7 and the deletion of the reference to subsection 133 (5) of the *Income Tax Act* (Canada) in the re-enactment of subsection 41 (3) of the said Act by subsection 13 (2) of this Act, shall be deemed to have come into force on the 1st day of January, 1979. Idem

R.S.C. 1952,
c. 148

(14) Sections 8 and 19 shall be deemed to have come into force on the 14th day of May, 1982 with respect to taxation years of a corporation ending after the 13th day of May, 1982, where the corporation has claimed a deduction from tax for any year under clause 33 (1) (b) of the said Act, and shall be Idem

deemed to have come into force on the 14th day of May, 1985, with respect to taxation years ending after the 13th day of May, 1985, where the corporation has not claimed a deduction from tax for any year under clause 33 (1) (b) but has claimed a deduction from tax for any year under subsection 33a (1) of the said Act.

Idem (15) Subsections 9 (1) and (2) shall be deemed to have come into force on the 1st day of January, 1978, and apply to all taxation years of a corporation ending after the 31st day of December, 1977.

Idem (16) Subsections 9 (3), (4) and (5) shall be deemed to have come into force on the 1st day of January, 1976, and apply to all taxation years of a corporation ending after the 31st day of December, 1975.

Idem (17) Subsections 10 (1) and (3) and section 11 shall be deemed to have come into force on the 14th day of May, 1985 and apply to taxation years of corporations ending after the 13th day of May, 1985.

Idem (18) Subsection 10 (2) shall be deemed to have come into force on the 16th day of May, 1984 and applies with respect to taxation years of a corporation ending after the 15th day of May, 1984.

Idem (19) Section 12 shall be deemed to have come into force on the 24th day of October, 1979, and applies to taxation years commencing after 1979 in respect of corporations in existence on the 23rd day of October, 1979 and to taxation years commencing after the 23rd day of October, 1979 in any other case.

Idem (20) Subsection 13 (1) shall be deemed to have come into force on the 1st day of January, 1982, and applies to the computation of taxable income by corporations for taxation years ending after 1981 with respect to net capital losses determined for taxation years ending after 1983.

Idem (21) Sections 14 and 18 shall be deemed to have come into force on the 13th day of November, 1981, and apply to corporations which became subject to tax after the 12th day of November, 1981.

Idem (22) Sections 15 and 16 shall be deemed to have come into force on the 12th day of December, 1979, and apply to all taxation years of corporations ending after the 11th day of December, 1979.

(23) Section 17 shall be deemed to have come into force on the 20th day of May, 1980. Idem

(24) Subsections 20 (4), 21 (2) and 23 (2) shall be deemed to have come into force on the 20th day of April, 1983 and apply to assessments issued after the 19th day of April, 1983. Idem

(25) Subsection 21 (1) and section 22 shall be deemed to have come into force on the 15th day of February, 1984, and apply to assessments issued after the 14th day of February, 1984. Idem

(26) Subsection 23 (1) shall be deemed to have come into force on the 18th day of July, 1983. Idem

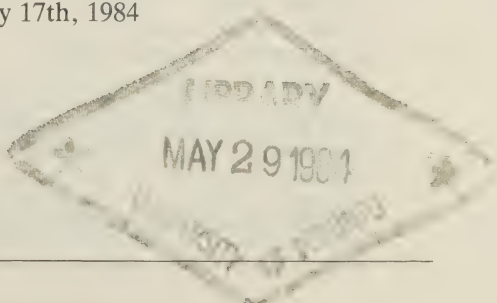
31. The short title of this Act is the *Corporations Tax Amendment Act, 1984*. Short title

Bill 73

An Act to amend the Small Business Development Corporations Act

The Hon. B. Gregory
Minister of Revenue

1st Reading May 17th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

GENERAL. The Bill implements the following proposals in the Treasurer's Budget of May 15, 1984, as well as enacting certain changes required to effectively administer the Budget proposals:

1. Investments by small business development corporations in small businesses which are either based in northern and eastern Ontario or qualify as new enterprises will be encouraged by the allocation of separate incentive funds from which grants and tax credits will be paid or allowed only to shareholders of small business development corporations which invest in such businesses.
2. The maximum investment in shares and debt obligations issued by any one small business to one or more small business development corporations will be limited to \$2,500,000.
3. The maximum investment by a group of small business development corporations in any one small business will be limited to 49 per cent of the issued and outstanding equity shares of the small business.
4. The definition of "associate" in the Act will be expanded to include persons normally considered to be family members and non-arm's length persons.

SECTION 1.—Subsection 1. The amendment to clause 1 (1) (a) of the Act extends the definition of an associate of a person to add corporations of which the person is an officer or director, corporations affiliated with associates of the person, trusts and estates in which associates of the person have a substantial interest, co-venturers in joint ventures of which the person is a member, and additional members of the person's family as defined in new clause 1 (1) (fa).

Subsection 2. New clauses 1 (1) (fa) and (p) add definitions of "member of the family" and "spouse", in order to expand the definition of "associate" in the Act to now include the in-laws, aunts, uncles, nephews, nieces, cousins, grandparents and grandchildren of the person.

SECTION 2. The amendments to section 5 are consequential upon the enactment of section 22a by section 8 of the Bill.

Subsection 1. The amendment of subsection 5 (1) removes the reference therein to subsection 5 (4) which is repealed by subsection 2.

Subsection 2. The amendment repeals subsections 5 (4) and (5), consequential upon the enactment of section 22a by section 8 of the Bill.

Subsections 5 (4) and (5) now read as follows:

(4) Where the Minister is of the opinion that the number of corporations registered under this Act will be sufficient to take up the prescribed amount of money payable by way of grant under section 21 or foregone by way of tax credit under section 22, the Minister may, subject to the approval of the Lieutenant Governor in Council, by order, suspend the further registration of corporations, or the payment of grants and the allowance of tax credits under this Act for such period of time as is specified in the order.

(5) No order under subsection (4) shall operate to prevent the Minister from making a grant where the shares were fully paid for and beneficially owned by the shareholder prior to the making of the order, or operate to prevent the carrying forward of a tax credit under section 23.

SECTION 3. The re-enactment of section 7 of the Act provides that the investment requirements to be met by the small business development corporation under the Act shall be determined in relation to time periods after the small business development cor-

poration raises its equity capital rather than in relation to time periods after registration as a small business development corporation. The amendment further requires that investments made after May 15, 1984, must be made in the class of small businesses to be supported by the incentive funds from which grants and tax credits were paid or allowed to shareholders of the small business development corporation.

Section 7 now reads as follows:

7.—(1) Prior to the end of its first year of registration under this Act, a small business development corporation shall have equity capital of at least \$100,000 and at least 40 per cent of the amount of its equity capital shall be in eligible investments.

(2) Prior to the end of its second year of registration under this Act, a small business development corporation shall have invested at least 70 per cent of its equity capital in eligible investments.

(3) During the third and subsequent years of registration under this Act, a small business development corporation shall maintain an average of at least 70 per cent of its equity capital in eligible investments calculated in the prescribed manner.

(4) After the first year of its registration under this Act, a small business development corporation shall at all times maintain an equity capital of at least \$100,000 but not exceeding \$5,000,000 if the corporation is not offering its equity shares to the public and not more than \$10,000,000 if the corporation is offering its equity shares to the public.

SECTION 4.—Subsection 1. The amendment to subclause 9 (1) (d) (v) of the Act deletes two redundant words.

Subsections 2 and 3. The re-enactment of clause 9 (1) (e) and the repeal of clause 9 (1) (ea) of the Act implements the Treasurer's Budget proposals to provide that a small business development corporation or a group of small business development corporations cannot hold more than 49 per cent of the equity shares of any one small business, with respect to investments made after May 15, 1984.

Clauses 9 (1) (e) and (ea) now read as follows:

(e) the number of equity shares taken by the small business development corporation and any affiliated corporation in the small business in which the small business development corporation and the affiliated corporation invests does not at any time exceed 49 per cent, determined in accordance with subsection (2), of all issued and outstanding equity shares of such small business;

(ea) the aggregate of eligible investments made by two or more small business development corporations in a small business does not exceed 60 per cent, determined in accordance with subsection (2), of the issued and outstanding equity shares of the small business.

Subsection 4. The repeal of clause 9 (1) (eb) of the Act is consequential upon the Treasurer's Budget proposal to limit investment in any small business to \$2,500,000. Clause 9 (1) (eb) as it now reads permits a small business development corporation or a group of small business development corporations to invest a maximum of \$5,000,000 in any one small business.

Subsection 5. The re-enactment of subsection 9 (2) and the enactment of subsection 9 (3) of the Act is consequential upon the amendment to the definition of "associate" and clarifies that in determining the number of equity shares of a small business held by small business development corporations, any additional equity shares that would be issued on the conversion of debt obligations or outstanding shares, or on the exercise of options, warrants or rights, issued by the small business, will be deemed to have been issued, and the small business development corporation will be deemed to hold any equity shares of the small business held by a shareholder of the small business develop-

ment corporation or by an associate of such a shareholder. In addition, any options, warrants or rights in respect of equity shares of a small business issued by anyone other than the small business and held by a shareholder of the small business development corporation or by an associate of such shareholder shall be deemed to have been exercised and the equity shares in respect thereof to be held by the small business development corporation.

Subsection 9 (2) now reads as follows:

(2) In determining the percentage of issued and outstanding equity shares of a small business for the purposes of clause (1) (e) or (ea), there shall be included,

- (a) the number of equity shares into which any debt obligation or shares of such small business may be converted;*
- (b) any option or right to purchase equity shares of such small business; and*
- (c) any equity shares, convertible debt obligations and any options or rights of such small business beneficially owned or held by an associate or an affiliated corporation of the small business development corporation or any shareholder of it, or an associate or affiliated corporation of such shareholder.*

SECTION 5. The re-enactment of clause 10 (1) (d) of the Act is to clarify that debt obligations of a small business acquired by a small business development corporation must meet all of the criteria of being an eligible investment with the exception of being debt rather than equity, and is consequential upon the Treasurer's Budget proposal that the maximum investment by one or more small business development corporations in shares and debt obligations of a small business is limited to \$2,500,000.

Clause 10 (1) (d) now reads as follows:

- (d) debt obligations of any small business that is an eligible investment.*

SECTION 6.—Subsections 1 and 2. Implement the Treasurer's Budget proposals that not more than 49 per cent of the equity shares of a small business may be held by small business development corporations, their shareholders and associates of their shareholders, and that the total investment by small business development corporations in both shares and debt obligations issued by a small business cannot exceed \$2,500,000. In addition, subsection 2 clarifies the Province's existing policy that small business development corporations may not invest in securities issued by a small business which entitle the holder to claim a scientific research tax credit or a special share purchase tax credit under the *Income Tax Act* (Canada).

Clauses 12 (1) (b) and (d) now read as follows:

- (b) the small business development corporation, together with its shareholders and any associates and affiliated corporations, and any associates and affiliated corporations of its shareholders, would hold more than 49 per cent of the issued and outstanding equity shares of such corporation;*
- (d) the aggregate of eligible investments made by two or more small business development corporations in such corporation will exceed 60 per cent of the issued and outstanding equity shares of the corporation.*

SECTION 7. The re-enactment of subsection 20 (2) clarifies that no grant or tax credit will be paid or allowed unless the trust fund under section 8 is maintained to the satisfaction of the Minister and provides further that, in accordance with the Province's existing policy, no grant or tax credit will be paid or allowed if the small business development

corporation has designated any of its issued securities to be a type which entitles the holder to receive the scientific research tax credit or the special share purchase tax credit under the *Income Tax Act* (Canada).

SECTION 8. The amendment adds section 22a to the Act to provide that grants and tax credits paid or allowed with respect to shares of a small business development corporation issued after May 15, 1984, will be funded from three separate funds, two of such funds being established to encourage investments in small businesses in northern and eastern Ontario and small businesses which qualify as new enterprises.

Subsection 1. Provides for the establishment of the three funds.

Subsection 2. Provides for the allocation of moneys to the funds.

Subsection 3. Requires each small business development corporation to elect from which fund grants and tax credits are to be paid and allowed with respect to each application for grants and tax credits.

Subsection 4. Provides that grants and tax credits with respect to shares issued by a small business development corporation after May 15, 1984 shall be paid out of the fund elected by the corporation.

Bill 73**1984**

**An Act to amend the
Small Business Development Corporations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclauses 1 (1) (a) (ii), (iii), (iv) and (v) of the *Small Business Development Corporations Act*, being chapter 475 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (ii) any corporation of which such person serves as an officer or director,
- (iii) any corporation which is affiliated with associates of such person as otherwise determined under this clause,
- (iv) any trust or estate in which such person has, in the opinion of the Minister, a substantial beneficial interest,
- (v) any trust or estate for which such person serves as trustee or in a similar capacity,
- (vi) any trust or estate in which associates of such person, as otherwise determined under this clause, have, in the opinion of the Minister, a substantial beneficial interest,
- (vii) any partner of such person or any participant in a joint venture of which such person is also a participant, or
- (viii) any member of the family of such person.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clauses:

(fa) “member of the family” means, with respect to a person,

(i) his spouse,

(ii) his child,

(iii) his father, mother, brother or sister or any lawful descendant of such brother or sister,

(iv) the brother or sister of his father or mother or any lawful descendant of any such brother or sister,

(v) the father, mother or any brother or sister of his spouse or any lawful descendant of any such brother or sister,

(vi) his son-in-law or daughter-in-law,

R.S.O. 1980,
c. 66

(vii) a person adopted by him under the *Child Welfare Act* or the spouse or any lawful descendant of such person, or

(viii) his grandfather or grandmother;

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R.S.O. 1980,
c. 152

(p) “spouse” means spouse as defined in section 1 and subclause 14 (b) (i) of the *Family Law Reform Act*.

2.—(1) Subsection 5 (1) of the said Act is amended by striking out “Subject to subsection (4)” at the commencement thereof.

(2) Subsections 5 (4) and (5) of the said Act are repealed.

3. Section 7 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 3 and 1983, chapter 26, section 1, is repealed and the following substituted therefor:

Capital
requirements

7.—(1) By the end of its first year of registration under this Act and at all times thereafter, a small business development corporation shall have equity shares issued and outstanding for equity capital of at least \$100,000, but not exceeding \$10,000,000 if the corporation is offering its equity shares to the public and \$5,000,000 in the case of any other corporation.

(2) Within the first twelve months after the date of issuance of any equity shares of a small business development corporation and throughout the next twelve months, the small business development corporation shall have acquired and maintained eligible investments, the acquisition cost of which shall be an amount, calculated in the prescribed manner, equal to at least 40 per cent of the equity capital received on the issuance of the equity shares. Investment requirement

(3) After the end of the twenty-fourth month following the date of issuance of equity shares, the small business development corporation shall have acquired and shall maintain eligible investments, the acquisition cost of which shall be an amount, calculated in the prescribed manner, equal to at least 70 per cent of the equity capital received on the issuance of the equity shares. Idem

(4) Where a grant or tax credit with respect to any equity share has been paid or allowed out of an incentive fund referred to in clause 22a(1) (a) or (b), each eligible investment referred to in subsections (2) and (3) shall have been made after the 15th day of May, 1984, and shall meet the prescribed conditions of being an eligible investment in a small business which is, Idem

- (a) primarily located in northern and eastern Ontario, if the grant or tax credit was paid or allowed out of the northern and eastern Ontario incentive fund; and
- (b) a new enterprise, if the grant or tax credit was paid or allowed out of the new enterprise incentive fund.

(5) For the purposes of this section, where a small business development corporation disposes of an eligible investment, it shall be deemed to maintain the investment for a period of six months following the date of the disposition. Idem

4.—(1) Subclause 9 (1) (d) (v) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 4, is repealed and the following substituted therefor:

(v) any prescribed purpose or object.

(2) Clause 9 (1) (e) of the said Act is repealed and the following substituted therefor:

- (e) the total number of equity shares acquired by all shareholders of the small business which are small business development corporations does not exceed

49 per cent of the issued and outstanding equity shares of the small business determined in accordance with subsections (2) and (3).

(3) Clause 9 (1) (ea) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 4, is repealed.

(4) Clause 9 (1) (eb) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 4 and amended by 1983, chapter 26, section 3, is repealed.

(5) Subsection 9 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 4, is repealed and the following substituted therefor:

Deemed
issued
equity shares

(2) For the purposes of clause (1) (e), any additional equity shares that would be issued,

- (a) on the exercise of a conversion right attached to an existing debt obligation or outstanding share of the small business; or
- (b) on the exercise of any existing option, warrant or right issued or granted by the small business,

shall be deemed to have been issued and to be outstanding equity shares.

Deemed
ownership

(3) In determining the percentage of shares of a small business held by a small business development corporation,

- (a) equity shares of the small business held by a shareholder of the small business development corporation, and by any associates of such shareholder, shall be deemed to be held by the small business development corporation; and
- (b) options, warrants and rights in respect of equity shares of the small business issued by any person other than the small business and held by a shareholder of the small business development corporation, or by any associates of such shareholder, shall be deemed to have been exercised and the equity shares in respect thereof to be held by the small business development corporation.

5. Clause 10 (1) (d) of the said Act is repealed and the following substituted therefor:

- (d) debt obligations that meet all of the conditions of subsection 9 (1), except clause (c) thereof; or

.

6.—(1) Clause 12 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 26, section 4, is repealed and the following substituted therefor:

- (b) as a result of the investment, more than 49 per cent of the issued and outstanding equity shares of the corporation would be held by small business development corporations, their shareholders and associates of their shareholders.

(2) Clause 12 (1) (d) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 26, section 4, is repealed and the following substituted therefor:

- (d) as a result of the investment, the aggregate of,
 - (i) the issue price of all outstanding shares, and
 - (ii) the balance of all outstanding debt obligations,

of the corporation and its affiliates held by small business development corporations would exceed \$2,500,000; or

- (e) the security issued to the small business development corporation entitled the holder thereof to claim a credit against income tax payable under the *Income Tax Act* (Canada) with respect to the purchase of such security.

R.S.C. 1952,
c. 148

7. Subsection 20 (2) of the said Act is repealed and the following substituted therefor:

(2) The Minister shall not make a grant under section 21 or allow a tax credit under section 22 to any shareholder of a small business development corporation if the small business development corporation has, Idem

- (a) failed to establish and maintain a trust fund to the satisfaction of the Minister in accordance with section 8; or
- (b) designated any of its issued securities to be a type of security entitling the holder thereof to claim a credit

R.S.C. 1952,
c. 148

against income tax payable under the *Income Tax Act* (Canada) with respect to the purchase of such security.

8. The said Act is amended by adding thereto the following section:

Incentive
funds

22a.—(1) The moneys appropriated by the Legislature for the payment of grants and the allowance of tax credits under this Act shall be held by the Minister in accordance with subsection (2) in separate funds, being,

- (a) the northern and eastern Ontario incentive fund;
- (b) the new enterprise incentive fund; and
- (c) the general fund.

Allocation
to incentive
funds

(2) The amount or percentage of the moneys appropriated by the Legislature for the payment of grants and the allowance of tax credits under this Act that shall be allocated in each year to the incentive funds described in clause (1) (a) or (b) shall be the amount or percentage that is from time to time specified by order of the Lieutenant Governor in Council made on the recommendation of the Treasurer of Ontario and Minister of Economics.

Incentive
fund
election

(3) Prior to the Minister making a grant or allowing a tax credit to a shareholder of a small business development corporation in respect of equity shares issued after the 15th day of May, 1984, the small business development corporation shall file an election in the prescribed form designating, with respect to each such equity share, the fund described in subsection (1) from which a grant or tax credit is to be paid or allowed to the holder of such equity share.

Payment
from funds

(4) The Minister shall make a grant or allow a tax credit to a shareholder of the small business development corporation with respect to each equity share issued after the 15th day of May, 1984, only from the fund designated by the small business development corporation in the election filed under subsection (3).

Commence-
ment

9.—(1) Clause 12 (1) (e) of the said Act, as enacted by subsection 6 (2), and clause 20 (2) (b) of the said Act, as enacted by section 7, shall be deemed to have come into force on the 1st day of July, 1983, and apply to securities issued after the 30th day of June, 1983.

(2) Except as provided in subsection (1), this Act shall be deemed to have come into force on the 16th day of May, 1984. Idem

(3) Notwithstanding subsection (2), where an investment has been made by a small business development corporation before the 16th day of May, 1984, or where a small business development corporation has entered into a binding written commitment before the 16th day of May, 1984 to make an investment and the investment is made by the small business development corporation after the 15th day of May, 1984, the status of the investment as an eligible investment under the Act or as an asset which may be maintained by the small business development corporation shall be determined as if sections 1, 4 and 6 of this Act had not been enacted. Application

10. The short title of this Act is the *Small Business Development Corporations Amendment Act, 1984*. Short title

Bill 73

(Chapter 30
Statutes of Ontario, 1984)

An Act to amend the Small Business Development Corporations Act

The Hon. B. Gregory
Minister of Revenue

<i>1st Reading</i>	May 17th, 1984
<i>2nd Reading</i>	May 31st, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 73

1984

**An Act to amend the
Small Business Development Corporations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclauses 1 (1) (a) (ii), (iii), (iv) and (v) of the *Small Business Development Corporations Act*, being chapter 475 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (ii) any corporation of which such person serves as an officer or director,
- (iii) any corporation which is affiliated with associates of such person as otherwise determined under this clause,
- (iv) any trust or estate in which such person has, in the opinion of the Minister, a substantial beneficial interest,
- (v) any trust or estate for which such person serves as trustee or in a similar capacity,
- (vi) any trust or estate in which associates of such person, as otherwise determined under this clause, have, in the opinion of the Minister, a substantial beneficial interest,
- (vii) any partner of such person or any participant in a joint venture of which such person is also a participant, or
- (viii) any member of the family of such person.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clauses:

(fa) “member of the family” means, with respect to a person,

(i) his spouse,

(ii) his child,

(iii) his father, mother, brother or sister or any lawful descendant of such brother or sister,

(iv) the brother or sister of his father or mother or any lawful descendant of any such brother or sister,

(v) the father, mother or any brother or sister of his spouse or any lawful descendant of any such brother or sister,

(vi) his son-in-law or daughter-in-law,

(vii) a person adopted by him under the *Child Welfare Act* or the spouse or any lawful descendant of such person, or

(viii) his grandfather or grandmother;

.

(p) “spouse” means spouse as defined in section 1 and subclause 14 (b) (i) of the *Family Law Reform Act*.

2.—(1) Subsection 5 (1) of the said Act is amended by striking out “Subject to subsection (4)” at the commencement thereof.

(2) Subsections 5 (4) and (5) of the said Act are repealed.

3. Section 7 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 3 and 1983, chapter 26, section 1, is repealed and the following substituted therefor:

7.—(1) By the end of its first year of registration under this Act and at all times thereafter, a small business development corporation shall have equity shares issued and outstanding for equity capital of at least \$100,000, but not exceeding \$10,000,000 if the corporation is offering its equity shares to the public and \$5,000,000 in the case of any other corporation.

R.S.O. 1980,
c. 66

R.S.O. 1980,
c. 152

Capital
requirements

(2) Within the first twelve months after the date of issuance of any equity shares of a small business development corporation and throughout the next twelve months, the small business development corporation shall have acquired and maintained eligible investments, the acquisition cost of which shall be an amount, calculated in the prescribed manner, equal to at least 40 per cent of the equity capital received on the issuance of the equity shares. Investment
requirement

(3) After the end of the twenty-fourth month following the date of issuance of equity shares, the small business development corporation shall have acquired and shall maintain eligible investments, the acquisition cost of which shall be an amount, calculated in the prescribed manner, equal to at least 70 per cent of the equity capital received on the issuance of the equity shares. Idem

(4) Where a grant or tax credit with respect to any equity share has been paid or allowed out of an incentive fund referred to in clause 22a(1) (a) or (b), each eligible investment referred to in subsections (2) and (3) shall have been made after the 15th day of May, 1984, and shall meet the prescribed conditions of being an eligible investment in a small business which is, Idem

- (a) primarily located in northern and eastern Ontario, if the grant or tax credit was paid or allowed out of the northern and eastern Ontario incentive fund; and
- (b) a new enterprise, if the grant or tax credit was paid or allowed out of the new enterprise incentive fund.

(5) For the purposes of this section, where a small business development corporation disposes of an eligible investment, it shall be deemed to maintain the investment for a period of six months following the date of the disposition. Idem

4.—(1) Subclause 9 (1) (d) (v) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 4, is repealed and the following substituted therefor:

(v) any prescribed purpose or object.

(2) Clause 9 (1) (e) of the said Act is repealed and the following substituted therefor:

- (e) the total number of equity shares acquired by all shareholders of the small business which are small business development corporations does not exceed

49 per cent of the issued and outstanding equity shares of the small business determined in accordance with subsections (2) and (3).

(3) Clause 9 (1) (ea) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 4, is repealed.

(4) Clause 9 (1) (eb) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 4 and amended by 1983, chapter 26, section 3, is repealed.

(5) Subsection 9 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 4, is repealed and the following substituted therefor:

Deemed
issued
equity shares

(2) For the purposes of clause (1) (e), any additional equity shares that would be issued,

- (a) on the exercise of a conversion right attached to an existing debt obligation or outstanding share of the small business; or
- (b) on the exercise of any existing option, warrant or right issued or granted by the small business,

shall be deemed to have been issued and to be outstanding equity shares.

Deemed
ownership

(3) In determining the percentage of shares of a small business held by a small business development corporation,

- (a) equity shares of the small business held by a shareholder of the small business development corporation, and by any associates of such shareholder, shall be deemed to be held by the small business development corporation; and
- (b) options, warrants and rights in respect of equity shares of the small business issued by any person other than the small business and held by a shareholder of the small business development corporation, or by any associates of such shareholder, shall be deemed to have been exercised and the equity shares in respect thereof to be held by the small business development corporation.

5. Clause 10 (1) (d) of the said Act is repealed and the following substituted therefor:

- (d) debt obligations that meet all of the conditions of subsection 9 (1), except clause (c) thereof; or

.

6.—(1) Clause 12 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 26, section 4, is repealed and the following substituted therefor:

- (b) as a result of the investment, more than 49 per cent of the issued and outstanding equity shares of the corporation would be held by small business development corporations, their shareholders and associates of their shareholders.

(2) Clause 12 (1) (d) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 26, section 4, is repealed and the following substituted therefor:

- (d) as a result of the investment, the aggregate of,
 - (i) the issue price of all outstanding shares, and
 - (ii) the balance of all outstanding debt obligations,

of the corporation and its affiliates held by small business development corporations would exceed \$2,500,000; or

- (e) the security issued to the small business development corporation entitled the holder thereof to claim a credit against income tax payable under the *Income Tax Act* (Canada) with respect to the purchase of such security.

R.S.C. 1952,
c. 148

7. Subsection 20 (2) of the said Act is repealed and the following substituted therefor:

(2) The Minister shall not make a grant under section 21 or allow a tax credit under section 22 to any shareholder of a small business development corporation if the small business development corporation has, Idem

- (a) failed to establish and maintain a trust fund to the satisfaction of the Minister in accordance with section 8; or
- (b) designated any of its issued securities to be a type of security entitling the holder thereof to claim a credit

R.S.C. 1952,
c. 148

against income tax payable under the *Income Tax Act* (Canada) with respect to the purchase of such security.

8. The said Act is amended by adding thereto the following section:

Incentive
funds

22a.—(1) The moneys appropriated by the Legislature for the payment of grants and the allowance of tax credits under this Act shall be held by the Minister in accordance with subsection (2) in separate funds, being,

- (a) the northern and eastern Ontario incentive fund;
- (b) the new enterprise incentive fund; and
- (c) the general fund.

Allocation
to incentive
funds

(2) The amount or percentage of the moneys appropriated by the Legislature for the payment of grants and the allowance of tax credits under this Act that shall be allocated in each year to the incentive funds described in clause (1) (a) or (b) shall be the amount or percentage that is from time to time specified by order of the Lieutenant Governor in Council made on the recommendation of the Treasurer of Ontario and Minister of Economics.

Incentive
fund
election

(3) Prior to the Minister making a grant or allowing a tax credit to a shareholder of a small business development corporation in respect of equity shares issued after the 15th day of May, 1984, the small business development corporation shall file an election in the prescribed form designating, with respect to each such equity share, the fund described in subsection (1) from which a grant or tax credit is to be paid or allowed to the holder of such equity share.

Payment
from funds

(4) The Minister shall make a grant or allow a tax credit to a shareholder of the small business development corporation with respect to each equity share issued after the 15th day of May, 1984, only from the fund designated by the small business development corporation in the election filed under subsection (3).

Commence-
ment

9.—(1) Clause 12 (1) (e) of the said Act, as enacted by subsection 6 (2), and clause 20 (2) (b) of the said Act, as enacted by section 7, shall be deemed to have come into force on the 1st day of July, 1983, and apply to securities issued after the 30th day of June, 1983.

(2) Except as provided in subsection (1), this Act shall be deemed to have come into force on the 16th day of May, 1984. Idem

(3) Notwithstanding subsection (2), where an investment has been made by a small business development corporation before the 16th day of May, 1984, or where a small business development corporation has entered into a binding written commitment before the 16th day of May, 1984 to make an investment and the investment is made by the small business development corporation after the 15th day of May, 1984, the status of the investment as an eligible investment under the Act or as an asset which may be maintained by the small business development corporation shall be determined as if sections 1, 4 and 6 of this Act had not been enacted. Application

10. The short title of this Act is the *Small Business Development Corporations Amendment Act, 1984*. Short title

Bill 74

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

The Hon. L. Grossman

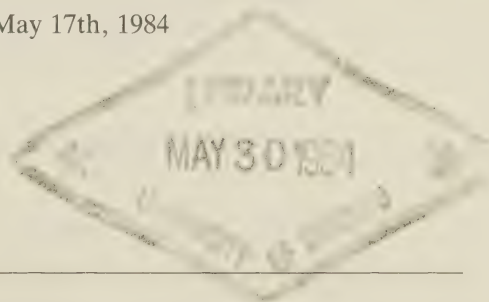
Treasurer of Ontario and Minister of Economics

1st Reading May 17th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to provide authority for borrowing moneys for the Consolidated Revenue Fund. The principal borrowings authorized under the *Ontario Loan Act* in recent years have been from the following sources:

1. Canada Pension Plan
2. Teachers' Superannuation Fund
3. The public capital market.

The amount of \$2,600,000,000 authorized by the Bill is intended to cover borrowing from the same sources.

The Bill provides that any unused borrowing authority will expire on September 30, 1985.

Bill 74

1984

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,600,000,000.

Loans up to
\$2,600,000,000

R.S.O. 1980,
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

R.S.O. 1980,
c. 348

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1985.

Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act*, 1984.

Short title

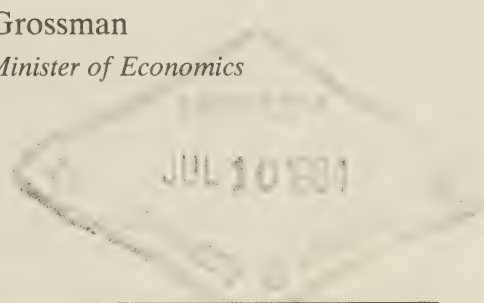
Bill 74

(Chapter 33
Statutes of Ontario, 1984)

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

The Hon. L. Grossman

Treasurer of Ontario and Minister of Economics



<i>1st Reading</i>	May 17th, 1984
<i>2nd Reading</i>	June 18th, 1984
<i>3rd Reading</i>	June 22nd, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 74

1984

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,600,000,000.

Loans up to
\$2,600,000,000

R.S.O. 1980,
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

R.S.O. 1980,
c. 348

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1985.

Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act, 1984*.

Short title

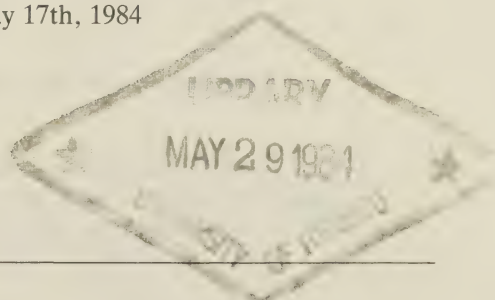
Bill 75

An Act to amend the Labour Relations Act

The Hon. R. H. Ramsay

Minister of Labour

1st Reading May 17th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

SECTION 1. The proposed amendment of subsection 44 (11) of the Act will enable any party, employer, trade union or employee affected by the decision of an arbitrator to seek immediate enforcement of a grievance arbitration decision as an order of the Supreme Court. At present, such enforcement cannot be sought until fourteen days after the decision is released or the date provided in the decision, whichever is later.

SECTION 2 and SUBSECTION 3 (1). Section 92 and subsection 135 (1) of the Act set out the powers of the Board related to the declaration of an unlawful strike and the giving of directions where an unlawful strike is declared. The proposed re-enactment of section 92 and the proposed re-enactment of subsection 135 (1) set out that the Board may, in addition to its existing powers, order remedial action where a person has done or is threatening to do an act that the person knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike.

SUBSECTION 3 (2). The proposed subsection 135 (2a) of the Act provides that the Board may give directions where section 146, which relates to provincial agreements, has been or may be contravened.

SECTION 4. The amendment is complementary to the enactment of subsection 135 (2a) of the Act as set out in subsection 3 (2) of the Bill and extends the application of the definitions set out in subsection 137 (1) to section 135.

SECTION 5. The proposed section 149a sets out who may vote with respect to a strike or lock-out in relation to a provincial bargaining unit and in relation to the ratification of a provincial agreement. If unauthorized persons participate in such a vote and as a result the vote has been affected materially, the Minister, on receipt of a complaint, may refer the matter to the Board. The Board will be authorized to give directions to the parties where it finds that improper voting has affected materially the result of the vote.

Bill 75

1984

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 44 (11) of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by striking out “after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later” in the fourth, fifth, sixth and seventh lines.

2. Section 92 of the said Act is repealed and the following substituted therefor:

92. Where, on the complaint of a trade union, council of trade unions, employer or employers’ organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened an unlawful strike or that employees engaged in or threatened to engage in an unlawful strike or any person has done or is threatening to do an act that the person knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike, the Board may so declare and it may direct what action, if any, a person, employee, employer, employers’ organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

Declaration
and direction
by Board re
unlawful
strike

3.—(1) Subsection 135 (1) of the said Act is repealed and the following substituted therefor:

(1) Where, on the complaint of an interested person, trade union, council of trade unions or employers’ organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an

Direction
by Board re
unlawful
strike

unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened an unlawful strike, or that employees engaged in or threatened to engage in an unlawful strike or any person has done or is threatening to do any act that the person knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike, it may direct what action, if any, a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

(2) Section 135 of the said Act is amended by adding thereto the following subsection:

Direction
by Board re
unlawful
agreements

(2a) Where, on the complaint of an interested person, trade union, council of trade unions, employers' organization, employee bargaining agency or employer bargaining agency, the Board is satisfied that a person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations or employer bargaining agency, bargained for, attempted to bargain for, or concluded any collective agreement or other arrangement affecting employees represented by affiliated bargaining agents other than a provincial agreement as contemplated by subsection 146 (1), it may direct what action, if any, a person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations, or employer bargaining agency, shall do or refrain from doing with respect to the bargaining for, the attempting to bargain for, or the concluding of a collective agreement or other arrangement other than a provincial agreement as contemplated by subsection 146 (1).

4. Subsection 137 (1) of the said Act is amended by inserting after "sections" in the first line "135 and".

5. The said Act is amended by adding thereto the following section:

Who may
vote,
employees

149a.—(1) Where an employee bargaining agency or an affiliated bargaining agent conducts a strike vote relating to a provincial bargaining unit or a vote to ratify a proposed provincial agreement, the only persons entitled to cast ballots in the vote shall be,

- (a) employees in the provincial bargaining unit on the date the vote is conducted; and
- (b) persons who are members of the affiliated bargaining agent or employee bargaining agency and who are not employed in any employment,
 - (i) on the day the vote is conducted, if the vote is conducted at a time when there is no strike or lock-out relating to the provincial bargaining unit, or
 - (ii) on the day before the commencement of the strike or lock-out, if the vote is conducted during a strike or lock-out relating to the provincial bargaining unit.

(2) Where an employer bargaining agency or employers' organization conducts a lock-out vote relating to a provincial bargaining unit or a vote to ratify a proposed provincial agreement, the only employers entitled to cast ballots in the vote shall be employers represented by the employer bargaining agency or employers' organization that employed, Idem,
employers

- (a) on the day the vote is conducted, if the vote is conducted at a time when there is no strike or lock-out relating to the provincial bargaining unit; or
- (b) on the day before the commencement of the strike or lock-out, if the vote is conducted during a strike or lock-out relating to the provincial bargaining unit,

employees who are represented by the employee bargaining agency or an affiliated bargaining agent that would be affected by the lock-out or would be bound by the provincial agreement.

(3) Within five days after a vote is completed, the employee bargaining agency, affiliated bargaining agent, employers' organization or employer bargaining agency conducting the vote, as the case may be, shall file with the Minister a declaration in the prescribed form certifying the result of the vote and that it took reasonable steps to secure compliance with subsection (1) or (2), as the case may be. Certification
of
compliance

(4) Where a complaint is made to the Minister that subsection (1) or (2) has been contravened and that the result of a vote has been affected materially thereby, the Minister may, in the Minister's discretion, refer the matter to the Board. Complaints

Idem (5) No complaint alleging a contravention of this section shall be made except as may be referred to the Board under subsection (4).

Idem (6) No complaint shall be considered by the Minister unless it is received within ten days after the vote is completed.

Declaration and direction by Board (7) Where, upon a matter being referred to the Board, the Board is satisfied that subsection (1) or (2) has been contravened and that such contravention has affected materially the results of a vote, the Board may so declare and it may direct what action, if any, a person, employer, employers' organization, affiliated bargaining agent, employee bargaining agency or employer bargaining agency shall do or refrain from doing with respect to the vote and the provincial agreement or any related matter and such declaration or direction shall have effect from and after the day the declaration or direction is made.

Commencement **6. This Act comes into force on the day it receives Royal Assent.**

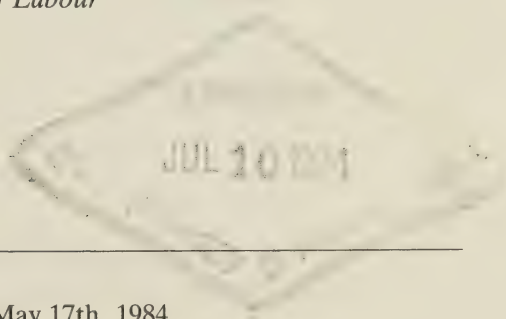
Short title **7. The short title of this Act is the *Labour Relations Amendment Act, 1984*.**

Bill 75

(Chapter 34
Statutes of Ontario, 1984)

An Act to amend the Labour Relations Act

The Hon. R. H. Ramsay
Minister of Labour



<i>1st Reading</i>	May 17th, 1984
<i>2nd Reading</i>	June 13th, 1984
<i>3rd Reading</i>	June 22nd, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 75

1984

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 44 (11) of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by striking out “after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later” in the fourth, fifth, sixth and seventh lines.

2. Section 92 of the said Act is repealed and the following substituted therefor:

92. Where, on the complaint of a trade union, council of trade unions, employer or employers’ organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened an unlawful strike or that employees engaged in or threatened to engage in an unlawful strike or any person has done or is threatening to do an act that the person knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike, the Board may so declare and it may direct what action, if any, a person, employee, employer, employers’ organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

Declaration
and direction
by Board re
unlawful
strike

3.—(1) Subsection 135 (1) of the said Act is repealed and the following substituted therefor:

(1) Where, on the complaint of an interested person, trade union, council of trade unions or employers’ organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an

Direction
by Board re
unlawful
strike

unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened an unlawful strike, or that employees engaged in or threatened to engage in an unlawful strike or any person has done or is threatening to do any act that the person knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike, it may direct what action, if any, a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

(2) Section 135 of the said Act is amended by adding thereto the following subsection:

Direction
by Board re
unlawful
agreements

(2a) Where, on the complaint of an interested person, trade union, council of trade unions, employers' organization, employee bargaining agency or employer bargaining agency, the Board is satisfied that a person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations or employer bargaining agency, bargained for, attempted to bargain for, or concluded any collective agreement or other arrangement affecting employees represented by affiliated bargaining agents other than a provincial agreement as contemplated by subsection 146 (1), it may direct what action, if any, a person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations, or employer bargaining agency, shall do or refrain from doing with respect to the bargaining for, the attempting to bargain for, or the concluding of a collective agreement or other arrangement other than a provincial agreement as contemplated by subsection 146 (1).

4. Subsection 137 (1) of the said Act is amended by inserting after "sections" in the first line "135 and".

5. The said Act is amended by adding thereto the following section:

Who may
vote.
employees

149a.—(1) Where an employee bargaining agency or an affiliated bargaining agent conducts a strike vote relating to a provincial bargaining unit or a vote to ratify a proposed provincial agreement, the only persons entitled to cast ballots in the vote shall be,

- (a) employees in the provincial bargaining unit on the date the vote is conducted; and
- (b) persons who are members of the affiliated bargaining agent or employee bargaining agency and who are not employed in any employment,
 - (i) on the day the vote is conducted, if the vote is conducted at a time when there is no strike or lock-out relating to the provincial bargaining unit, or
 - (ii) on the day before the commencement of the strike or lock-out, if the vote is conducted during a strike or lock-out relating to the provincial bargaining unit.

(2) Where an employer bargaining agency or employers' organization conducts a lock-out vote relating to a provincial bargaining unit or a vote to ratify a proposed provincial agreement, the only employers entitled to cast ballots in the vote shall be employers represented by the employer bargaining agency or employers' organization that employed,

Idem,
employers

- (a) on the day the vote is conducted, if the vote is conducted at a time when there is no strike or lock-out relating to the provincial bargaining unit; or
- (b) on the day before the commencement of the strike or lock-out, if the vote is conducted during a strike or lock-out relating to the provincial bargaining unit,

employees who are represented by the employee bargaining agency or an affiliated bargaining agent that would be affected by the lock-out or would be bound by the provincial agreement.

(3) Within five days after a vote is completed, the employee bargaining agency, affiliated bargaining agent, employers' organization or employer bargaining agency conducting the vote, as the case may be, shall file with the Minister a declaration in the prescribed form certifying the result of the vote and that it took reasonable steps to secure compliance with subsection (1) or (2), as the case may be.

Certification
of
compliance

(4) Where a complaint is made to the Minister that subsection (1) or (2) has been contravened and that the result of a vote has been affected materially thereby, the Minister may, in the Minister's discretion, refer the matter to the Board.

Complaints

Idem

(5) No complaint alleging a contravention of this section shall be made except as may be referred to the Board under subsection (4).

Idem

(6) No complaint shall be considered by the Minister unless it is received within ten days after the vote is completed.

Declaration
and direction
by Board

(7) Where, upon a matter being referred to the Board, the Board is satisfied that subsection (1) or (2) has been contravened and that such contravention has affected materially the results of a vote, the Board may so declare and it may direct what action, if any, a person, employer, employers' organization, affiliated bargaining agent, employee bargaining agency or employer bargaining agency shall do or refrain from doing with respect to the vote and the provincial agreement or any related matter and such declaration or direction shall have effect from and after the day the declaration or direction is made.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Labour Relations Amendment Act, 1984*.

Bill 76

An Act to amend the Municipal Act

Mr. Epp

1st Reading May 17th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would amend the *Municipal Act* to provide that the seat of a member of council who ceases to reside in the municipality or to own or rent property there becomes vacant after a thirty day period. (Under the present law such a member may continue to hold office for the balance of the term, although the member would not be entitled to vote or to be a candidate in subsequent elections).

Bill 76

1984

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 39 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

(2) The seat of a member of council becomes vacant on the day thirty days after the day the member, Idem

- (a) ceases to be a resident of the municipality, unless the member is an owner or tenant or the spouse of an owner or tenant of land in the municipality; or
- (b) ceases to be an owner or tenant or the spouse of an owner or tenant of land in the municipality, unless the member is a resident of the municipality.

(3) The seat of a member of council does not become vacant under subsection (2) if within the thirty day period referred to in that subsection the member, Saving

- (a) becomes a resident of the municipality; or
- (b) becomes an owner or tenant or the spouse of an owner or tenant of land in the municipality.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Municipal Amendment Act, 1984*. Short title



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